THE GOVERNMENT OF THE UNITED STATES

SHIMMELL

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THE GOVERNMENT OF THE UNITED STATES

BY

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PREFACE

MANY teachers entertain a conviction that most text-books for use in grammar- and high-school grades, especially in the latter, require too much time for a thorough mastery of their contents. The number of subjects taught in schools of all kinds and grades has greatly multiplied in recent years; but the school day is no longer than it was—in fact, it is shorter; nor has the school year been lengthened much, least of all in towns and cities. Consequently there is much complaint concerning overloaded courses of study and crowded annual, weekly, and daily programs. There are those among educators, and others interested in educational improvement, who advocate a reduction in the number of subjects taught and a more intensive study of the branches retained. It is not within the province of this Preface to predict how the evil complained of will be remedied; but experience in the schoolroom has led many teachers to believe that less voluminous text-books would be at least a partial remedy. If the demands of the age require an increasingly greater number of subjects to be taught, it follows that less time must be given to each subject. But unless the text-books are proportionately reduced in their scope, the attempt to get over them will result in skimming and skipping, and consequently in an imperfect and evanescent knowledge of the contents.

From this point of view, the author herewith offers a text-book on the Government of the United States, which he believes will perform its mission without invading the rights of other branches of study having an admitted right to a place in the curriculum. In preparing the book, great care was taken not to omit anything essential to organic unity, logical and chronological sequence, historic illumination, and practical application. Omissions are chiefly along the line of economics and social and political science. Not that matters pertaining to public finance, banking, taxation, international law, municipal law, political parties, civil and political rights, are nowhere found in the book. Certain elements of these

subjects are incorporated wherever they have an incidental bearing, but there is no space devoted to elaborate discussion of them.

The author further desires to call attention to some features of the Chapter on the Constitution. He wishes to emphasize what he says in his note to the teachers, p. 37. The direction therein given for the thorough study of the text of the Constitution by means of questions, should be carefully observed. If the answers are not faithfully garnered and stored away in the memory, the pupil will be without a knowledge of many of the simplest, yet most essential, elements of the Constitution. For, as is stated in that note, the answers are not found in the author's text, but in the text of the Constitution. Then, too, the pedagogic value of the questions should not be overlooked. Many pupils in secondary schools have not had sufficient mental discipline to read the thoughts; they *will* read simply the words, especially in subjects that are new, and somewhat abstract like the Constitution. Questions and answers do more to make pupils think than consecutive statement does. Catechizing acts on the mind like the whip on the flesh. It promotes activity.

The last chapter will enable the pupil to make comparisons of the Government of the United States with that of the leading nations of the world. Such a comparative knowledge cannot fail to be of interest and benefit. The people of the United States since the Spanish-American War have been forced to take note of all phases of life as it exists in other countries. Two of those whose governments are treated in this book—Russia and Japan—recently became objects of world-wide interest in everything that pertains to them. The other three are the mother-countries of most native-born Americans—England, France, and Germany. A study of their government needs no apology.

L. S. SHIMMELL.

May 5, 1906.

CONTENTS

CHAPTER PAGE

I. Forms of Civil Government: Their Origin and Nature 7

II. The Development of Local, State, and National Government in the United States 16

III. The Formation and Establishment of the United States Government 26

IV. A More Perfect Union Formed 31

V. The Constitution of the United States 37

1. The Preamble 37

2. The Distribution of Powers 39

3. Article I.—The Legislative Department . . . 40

a. The Congress 40

b. The House of Representatives 40

c. The Senate 47

d. Both Houses of Congress 52

e. The Houses Separately 53

f. Compensation, Privileges, and Disabilities . 56

g. The Making of Laws 58

h. The Powers of Congress 61

i. Powers Forbidden to Congress 73

j. Powers Forbidden to the States . . . 76

CHAPTER PAGE

V. THE CONSTITUTION OF THE UNITED STATES—*Continued*

4. Article II.—The Executive Department . . . 79
   a. The President and Vice-President . . . 79
   b. The President's Powers 87
   c. The Presidential Duties 95
   d. Removal by Impeachment 96
5. Article III.—The Judicial Department . . . 96
   a. The United States Courts 96
   b. The Jurisdiction of United States Courts . 99
   c. Treason 103
6. Article IV.—The States and Territories . . . 104
   a. Their Official Acts 104
   b. Privileges of Citizens 105
   c. New States, and the Territories . . . 106
   d. Protection to the States 109
7. Article V.—Amendments 110
8. Article VI.—General Provisions 112
9. The Establishment of the Constitution . . . 114
10. The Amendments to the Constitution . . . 115
   a. The Bill of Rights 115
   b. The Judicial Power Abridged 122
   c. The Election of President and Vice-President Changed 122
   d. The War Amendments 123

VI. A COMPARISON OF GOVERNMENTS 128
   a. England 128
   b. France 134
   c. Germany 138
   d. Russia 142
   e. Japan 145

THE GOVERNMENT OF THE UNITED STATES

THE CAPITOL AT WASHINGTON

CHAPTER I

FORMS OF CIVIL GOVERNMENT: THEIR ORIGIN AND NATURE

1. The Necessity of Government Everywhere.—Whenever a number of persons are associated for any definite purpose they must be controlled, that is, governed; otherwise confusion and disorder will defeat the object of the association. There must be government in the family, in the school, in the church—to maintain the order required to accomplish the purpose of these social bodies.

The control implied in government always has *order* for its object. A band of robbers may be controlled, and usually is, by some leader; but his control seeks disorder, not order.

2. Civil Government and Its Necessity.—It is impossible for man to live alone. His nature and his necessities oblige him to seek communion and fellowship with others. Hence he has always lived in communities. The government of a community is civil or political government. Selfishness—the thing that makes government indispensable in every form of human organization—is considerably curbed in the family by affection. In a community selfishness is not checked by family ties; and without civil government this evil tendency of man would override all rights and privileges and cause disorder to reign supreme.

The chief need for civil government, therefore, lies in the establishment and preservation of *order* in the community. This may be termed its *police function.* It consists of the making and enforcement of laws for the protection of life and property from malice, avarice, and neglect. Originally the police function was the only function of government; and in every new community it is still the first and only one to be exercised—for order is of primal necessity. Civil government in older communities—especially in highly civilized ones—does much more than protect life and property. Especially is this the case in recent times. It builds roads and bridges; it educates the youth; it provides for the poor; it promotes the health of the people; it furnishes lights, parks, and drives; it brings us our mail; it pensions our soldiers, and attends to other affairs that concern all the people

alike. This fatherly care which civil government exercises over the people is called *paternalism*.

3. The Origin of Government.—Civil government had its origin in family government. The earliest communities in every race consisted of families, and were banded together by blood relationship. First, there was the single family, governed by the father. As long as he lived all families arising by the marriage of his children, as well as of his more remote descendants, were subject to his control. His power may be summed up in the words *king* and *priest*; for he governed in things political and things spiritual. When the father died the oldest living male descendant succeeded to the rulership. This primitive kind of government is known as patriarchal government, and is well illustrated in the patriarchs of the Bible.

4. The Evolution of the State.—In the course of time the family broadened into the *house*, which was a large, composite family, no longer united by the bond of kinship, but by common religious rites and observances. Some kinsman, by virtue of his priority of birth, continued to be the ruler. The houses united and formed tribes, whose chiefs likewise held their places by the law of kinship with the tribe. The necessity of having some able leader in case of war among tribes naturally led to the selection of the hardiest and most experienced man. Having successfully commanded a tribe or several tribes in a military expedition, and possibly subjugated other tribes, such a leader would frequently usurp power afterwards and emerge from his temporary leadership as king, with a number of tribes under his absolute dominion. If his male descendants were men sufficiently able to

perpetuate the rule of their father the kingship passed to the hereditary state; otherwise it remained elective. Tribes so united constituted the earliest state. After some time the king, in order to strengthen himself, associated with his rule persons of power and influence. Out of these alliances grew the king's guards and standing armies, the privileged orders, the nobilities, and the aristocracies of the more civilized states.

5. Early States without Land.—The earliest political organizations were traveling states. They had no territorial boundaries. Civilized states have passed through four stages of development. The first stage was that of hunting and fishing, or the savage stage, of which the American Indian is typical. The second stage was that of keeping herds and flocks, as did the patriarchs of the Bible. In both these stages the state was nomadic; for its people were now here, now there—wherever game and fish or grass and water were most abundant. In the third stage the people abandoned their migratory life and tilled the soil. But agriculture requires implements, and the making of these brought about the fourth stage of development in civilization, that of manufacturing. In the two latter stages the state came to be associated with the land on which its people dwelt. In this transition, for instance, the state of the Franks became the state of France; that of the Germans, Germany; that of the English, England. States were then no longer bound together by kinship, but by land.

6. The Modern State.—The original conception of a state embraced two elements only—a people and a government. When civilization reached the agricultural and manufacturing stages a third element became in-

volved in the idea. The term *state* then expressed the combined idea of people, territory, and government. "The state," says Bluntschli, "is the politically organized people of a particular land." A State in the United States, as defined by the Supreme Court, "is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed." This definition applies to the United States as a whole, as well as to the individual States.

7. Types of Civil Government.—There are three types of civil government, which are designated by Aristotle as: government by an individual, government by a few, and government by many. Expressed in other words these types are the monarchical, the aristocratic, and the democratic form of government. Where the rule of the Individual or the Few or the Many is directed to the benefit of the community, or state at large, the government is normal; where it is directed to the private interest of the Individual or the Few or the Many it is perverted. The perversion of monarchy is tyranny; of aristocracy, oligarchy; and of democracy, demagogy and anarchy.

8. Special Forms of Government.—Few of the modern governments are pure and simple monarchies or aristocracies or democracies. The three typical forms are sometimes combined into one and the same government. However, in all such cases one of the typical forms predominates. The special forms of government in which the rule by the Individual predominates are the oldest and most numerous. Many people think that government by the Few, and more especially by the

Many, is possible only after the people of a state have become possessed of intelligence and self-control.

A *Patriarchy* is a government in which the eldest living male parent is the absolute ruler of a family which has descended from a common progenitor. Abraham, Isaac, and Jacob were patriarchal rulers.

A *Theocracy* is a government in which God rules through the institution of a priesthood. The government which Moses established among the Israelites was theocratic.

An *Absolute Monarchy* is a government in which a single person is the absolute ruler; that is, all the powers of government are vested in him. He makes the laws, executes them, and punishes violations of them. Not that he attends to all this personally; but those who do derive their authority from him. Though the will of an absolute monarch is the law of the land, yet the plain rights of his subjects act as a check upon him. Even a tyrant fears revolution and personal violence. China is an example of absolute monarchy.

A *Limited Monarchy* is a government whose powers are not all vested in the monarch; some are granted to the people. Generally, the making of the laws is either wholly or in part in the hands of the people. Modern kingdoms are nearly all limited monarchies. In England about all that is left of the monarchy is the name; the King can only advise, and even his advice, when given in a formal way, as in the King's address to Parliament, is formulated by the Cabinet, whose members represent the will of the people. The law-making power in England is entirely with the people. No sovereign since the Hanoverian dynasty came to the throne in 1714 has used the

veto power. Nor does the House of Lords, which is an aristocratic feature of the government, withhold its consent to an act passed by the Commons, unless there is some doubt as to the will of the people.

An *Elective Monarchy* is one in which the king is elected. Greece and Norway are elective monarchies. Originally, kings were elected (see p. 9); but the desire to perpetuate power, wealth, and glory in a family led to the usurpation of the kingship.

An *Hereditary Monarchy* is one in which the crown descends to some member of the royal family. The rule of succession varies in different monarchies. In some the Salic law, which prevents females from inheriting the throne, is in force. Such used to be the case in France, and in Spain prior to the time of Isabella.

An *Aristocracy* is a government in which a few men distinguished by birth, culture, and wealth exercise supreme power jointly. This is a very unstable form of government, and generally passes into the hands of one or of many, becoming either a monarchy or a democracy. The Italian cities of the Middle Ages, notably Venice, were aristocracies. The nobility of modern monarchies is an aristocratic feature of government; but it is everywhere subordinated either to the king or to the people.

An *Empire*, in a loose sense of the word, is any monarchy that assumes such a name; in the strict sense it is an aggregation of conquered, colonized, or confederated states, each with its own government subordinate or tributary to that of the empire as a whole. The ruler of an empire is called emperor. The Roman Empire consisted largely of conquered states. England is both a

kingdom and an empire. As an empire it consists of conquered and colonized states added to the kingdom. Its ruler is styled King of the United Kingdom of Great Britain and Ireland and Emperor of India. Germany is mostly an empire of confederated states; and the King of Prussia is Emperor of Germany. An empire is generally considered as a grant, and royalty as a right.

A *Democracy* is a government administered directly by the people. It is possible in a small state only, where the people have not far to go in order to meet in a body for the purpose of making laws and electing officers. In Rhode Island, for a brief period in its infancy, every man who was the head of a family was a member of the General Court (legislature). And in Pennsylvania every freeholder was entitled to attend the first session of the General Assembly. The townships of New England are at the present day pure democracies. The referendum, i. e., submitting a public question directly to a vote of the people, is based on the principle of a pure democracy.

A *Republic* is a democracy in which the people elect representatives to make the laws, administer justice, and attend to the affairs of state in general. Representative democracy is the only form of democratic government that is practicable for large states. There is little difference between a democracy and a republic, for in both the sovereign power is in the hands of the people. The representatives in a republic are the agents of the people and simply act in their stead. In the making of laws the members of a legislature are politically identical with the people. The United States government and forty-five State governments are all republican in form.

9. The Best Form of Government.—Pope says:

> 'For forms of government let fools contest,
> Whate'er is best administered, is best."

William Penn, in his "Frame of Government" for Pennsylvania, says that "Though good laws do well, good men do better." Both these utterances lay much stress on *good men* for the administration of government. In an inquiry, therefore, as to what form of government is best, we may get some light by asking the question, What form of government produces the best rulers? A republican government makes the people themselves, and not one or a few, responsible for the security of their rights, as in a monarchy or an aristocracy. As a rule all our interests in life are never so well guarded as when we guard them ourselves. Hence it may be inferred that popular government produces the best rulers, provided, of course, that the people have the necessary intelligence and morality to understand and practice the right principles of government. Another question that arises is, Which form of government is most easily perverted and overturned? History is full of examples where monarchs became tyrants and aristocracies became oligarchies. As to republican government, it is still on trial. It is true that republics have been perverted and overthrown, in both ancient and modern times, but they were not established on absolute equality of rights, which is the foundation on which ours rests.

CHAPTER II

THE DEVELOPMENT OF LOCAL, STATE, AND NATIONAL GOVERNMENT IN THE UNITED STATES

1. The Origin of the Township.—The American township had its origin in Europe among the Teutonic, or Germanic, races, from which the Germans, the Anglo-Saxons, the Danes, the Scandinavians, and the Dutch have descended. The Teutons, or ancient Germans, possessed and wandered over the whole territory from the Rhine to the Vistula, and even farther eastward.

When a clan of those ancient Germans ceased to wander from place to place and settled permanently somewhere (see p. 10), they formed a village. This was protected by a wall, outside of which lay a belt of land which they used for tillage and grazing. The wall was called a *tun*, and the land a *mark*. The village became known either as the *mark* or the *tun* or *town*—in England, as the *town*. The fellow-tribesmen of a town had local self-government. They met in town meetings to make local laws, elect local officers, and decide questions of justice.

When the Anglo-Saxons had been converted to Christianity, the people became subject to church government as well as to civil government. In order to administer church government locally, parishes were established, which were generally coextensive with the townships. The parish exercised the right to lay taxes

for church support. By and by the parish took the place of the township in England and administered both spiritual and temporal affairs. Hence it was that in some of the English colonies in America, where the Church of England was dominant, notably in Virginia, the name *parish* was applied to what in other colonies was known as the township. In Louisiana the counties are called parishes.

After the Norman conquest local government in England fell into the hands of great lords. The township or parish became the manor, whose chief officers were responsible to the lords, rather than to the people. However, the ancient town meeting survived and continued to exercise some local power.

2. The Township in New England.—From these different forms of local government at home the colonists in America selected that best suited to their own conditions. As there were to be no lords of the manor among the Puritans in America, they selected the parish as the unit of local government. They gave it the name of *town* or *township*, because it was the oldest and most expressive name. New England was settled largely by church congregations led across the sea and into the wilderness by their pastors. The people liked to live near the church; and as farming could not be carried on extensively, on account of the poor soil, they settled in compact communities around the church. To live in towns was also a protection from the Indians. It was in this way that New England came to have the ancient *tun* or *town* as a unit of local government. The church was the nucleus of the town (remember *town* means the town proper and all the country roundabout).

Once every year a town meeting was held—at first in the churches, later in the town halls. At these meetings the voters passed laws, elected officers, and laid taxes. The pastor was generally the leading man in the town meeting. Thus originated the New England township with its very large powers of local government.

3. The Township in the South.—In the South agriculture on an extensive scale was the main industry. The cultivation of tobacco, rice, indigo, and other staples, and the employment of slaves in the work, tended to make the plantations large. The people lived widely scattered, and the towns were few and at great distances apart. The narrowest local organization was the parish. Its members, who were originally elected by the church, but afterwards by the vestry itself, had charge of the church government and the care of the poor, and laid a tax for these purposes. The parish in the South was the original parish of England, being chiefly a local church government. The local civil government was exercised by the county. After church and state were separated the voting precinct became the smallest unit of local government. It is a mere geographical division made for the convenience of voters.

4. The Township in the Middle States.—In the Middle States the original population was more mixed in nationality and religion than either that of New England or of the South. The township here has neither the large degree of local power found in New England nor the limited degree found in the South. The settlers of Pennsylvania especially were of various nationalities. The Dutch, the Swedes, the English, the Germans, the Welsh, the Swiss, the French, the Scotch-Irish, all con-

tributed to the formation of local government. Penn had the right in his charter to divide his province into "towns, hundreds, and counties, and to erect and incorporate towns into boroughs, and boroughs into cities;" also, "to erect any parcels of land into manors." The township is not mentioned in this list of political units for local government. Instead, the hundred is named as a division after the county. The hundred in England was a military and fiscal division of the county. In ancient Germany it was probably a district that was required to furnish a hundred warriors. The hundred was likewise introduced in Maryland, Delaware, and Virginia. It still exists in Delaware. Maryland had also a number of manors.

5. **The Origin of the County.**—As the clan became the town when the Anglo-Saxon ceased to migrate, so the tribe became the shire (called county in England after the Norman Conquest). The shire had its *mote* (meeting) to which selected men from each township were sent as representatives, together with a number of delegates from the hundreds. Boroughs and cities were allowed separate representatives, called burghers. The shire mote was both legislative and judicial. In its judicial capacity it finally became the county court, with its quarter sessions, its coroner, sheriff, and justices of the peace; but most of its legislative functions were absorbed by the Parliament of the kingdom.

6. **The County in New England.**—In England the shires are older than the kingdom. In New England the States are older than the counties. The county of New England originated by the division of the colony into districts in which courts should be held quarterly. But

as such ample powers of local government are given to the township the county is chiefly a judicial and military district of the State. It was not even the unit of representation in the legislature until the middle of the nineteenth century. And in Connecticut to-day the town is the unit of representation in the lower branch.

7. The County in the South.—The conditions in the South made the county the chief organ of local government; but it was not so populous as in New England, consisting in a few instances of a single parish. The county administered justice by means of a court that met about once a month in some court house, erected at a convenient place and named after the county, as, Hanover Court House, Virginia. "Court day" was a holiday for all classes of people. Though they had no voice in the public business transacted, yet "court day" furnished an occasion like that of the New England town meeting, for it brought the people of the whole county together for the discussion of public questions. Roads and bridges were built and repaired by the county; in fact nearly all local affairs excepting those pertaining to the church were managed by county officers, most of whom were either appointed by the governor or perpetuated their rule by the method of close corporations. The county, too, was the unit of representation in the legislature. These facts explain why at the present day the county in the South is the medium for the transaction of nearly all public business.

8. The County in the Middle States.—In the Middle States, outside of Pennsylvania, the county of colonial times is more difficult to define. In Maryland and Delaware the hundred played an important part in local

government; and the county government was administered mostly by certain officers of the hundreds. New York, while under the Dutch, had its village assemblies, which resembled the town meetings of New England. The county was a representative government, consisting of supervisors elected by the townships. In Pennsylvania the county existed before the township, and in the earlier history of the province it exercised most of the functions of local government. The officers of the county were elected by the people, and when townships were erected the people likewise elected the officers.

9. The Origin of the States.—The States of the United States had their origin in thirteen English colonies in America. A colony is a body of people migrating from their native country and making a settlement in a land beyond the boundaries of the parent state, but remaining more or less dependent upon the native state. A colony is perpetuated by the descendants of such settlers and later comers. The government is formed by authority of the home Government.

In the case of the English colonies in America the authority to establish them was given by means of charters which served as constitutions. In these charters the King of England agreed with the settlers that they and all their descendants born in the colonies should enjoy the rights of Englishmen at home.

10. The Government of the Colonies.—There were in the colonies three varieties of government: (*a*) The charter government, through which the Crown gave the colonists power to organize a government, elect the governor, and hold him responsible for his acts; (*b*) the proprietary government, by which the Crown granted a

tract of land to one or more individuals, called the proprietary, and empowered him or them to establish the government, appoint the governor, and instruct him how to rule; and (*c*) the royal government, established by the Crown, which appointed the governor and instructed him how to rule. None of the colonies was originally royal. At the time of the Revolution the charter colonies were Rhode Island and Connecticut; the proprietary, Maryland, Pennsylvania, and Delaware; the royal, New Hampshire, Massachusetts, New York, New Jersey, Virginia, North and South Carolina, and Georgia. All the colonies had a legislature composed of two branches, except Pennsylvania and Georgia, which had a single-chambered legislature. The upper house was the council, which was advisory to the governor, as well as legislative and judicial. Its members in the royal colonies were usually appointed by the king; in the proprietary, by the proprietor. The lower house was composed of representatives chosen by the people; but the suffrage was very much restricted. Ownership of land, the payment of specified taxes, and religious beliefs of various sorts, were qualifications required of voters in colonial days. In Connecticut, in 1775, there were but 4,325 voters among 200,000 people.

A bill passed by the representatives had to pass the council and be approved by the governor before it became a law. Even then, in most colonies, it had to be submitted to the Crown within a period of three or five years. If annulled by the Crown it would not remain in force.

The judiciary was quite out of the reach of the legislatures. The judges were appointed by the governors, except in Connecticut and Rhode Island (where they were

elected by the legislature), and held office during good behavior.

11. Formation of State Governments.—When, after the Revolutionary War had begun, there was no further hope that the king would redress the grievances of the colonies, Congress, May 15, 1776, recommended the formation of State governments. This was done, as a rule, by a body of men in each colony, known as the Provincial Convention, or Provincial Congress, which, in 1775, had taken upon itself all the powers of government. It was composed of delegates elected by the people, in the same way as they had formerly elected their representatives in the legislature. In Connecticut and Rhode Island about the only thing required for the transition from colony to State was to strike out in the charter the words "king" and "colony" and insert the name of the State. These States used their old democratic charters as constitutions until 1818 and 1842 respectively. Thus, for the first time in the history of the world, the people, through their representatives, drew up constitutions that derived their authority from the consent of the governed.

12. The Origin of the Union.—Very early in the history of the colonies acts of partial union existed among some of them. Pennsylvania and Delaware had an agreement whereby the sheriffs of each province could pursue a hue and cry for a certain distance across the line. Virginia and North Carolina had laws governing the intercourse of their inhabitants, and so had others. Indian attacks brought about the first league. In 1643 Massachusetts, Plymouth, Hartford, and New Haven formed the New England Confederacy. Its delegates—two from each colony—met annually, twice in suc-

cession at Boston, then at Hartford, New Haven, and Plymouth respectively, rotating among the four colonies once in every five years. This confederacy was dissolved in 1684.

The next danger that brought the colonies into some sort of union came from the French alliance with the Indians. From the meeting in Albany, in 1684, of commissioners from Massachusetts, New York, Maryland, and Virginia, to the Albany congress, in 1754, of delegates from New Hampshire, Massachusetts, New York, Rhode Island, Connecticut, Pennsylvania, and Maryland, there were ten such intercolonial conferences. After the settlement of Pennsylvania, which made the colonies continuous from the French possessions on the North to the Spanish possessions on the South, the possibilities of united effort for any purpose were very much greater. So in 1754, at the Albany congress, Benjamin Franklin proposed a permanent union to regulate Indian affairs, to make frontier settlements, and protect and defend the colonists. His scheme provided for a "President General" to be appointed by the Crown, and a "Grand Council" to be elected by the colonial legislatures. The plan was submitted to the colonies, but none voted to accept it; nor did England approve it.

Eleven years later, when the Stamp Act Congress met, the need of union was felt more strongly than ever. Nine colonies were represented by twenty-eight delegates, and all the others were in sympathy with the movement. It was the first Revolutionary congress. Petitions to the English Government and a declaration of rights were drawn up. Advanced ground on the way to union was taken by a member from South Carolina when he said:

"There ought to be no New England man, no New Yorker, known on the Continent; but all of us Americans." From 1765 to 1774 the habit of concerted action against the oppressive measures of Great Britain was very much strengthened by a system of correspondence. The circular letters that passed from colony to colony in those years aided greatly in bringing about the first Continental Congress from which the United States of to-day can trace an unbroken line of descent.

CHAPTER III

THE FORMATION AND ESTABLISHMENT OF THE UNITED STATES GOVERNMENT

1. The First Continental Congress.—The Continental Congress, which met in Carpenter's Hall, Philadelphia, September 4, 1774, may be said to have laid the corner stone for the structure of the United States Government. That Congress spoke in the name of "the good people of these colonies"—the first assertion of national unity made in the United States. It was revolutionary, because the delegates were chosen as a rule without legal authority — the governors dissolving the legislatures whenever these made a move to elect delegates. It exercised diplomatic and executive powers in the petitions and addresses drawn up. The only legislative act were the Articles of Association—a pledge not to import goods from England or her colonies—and the recommendation to the colonies that they pass laws to carry out the pledge.

2. The Second Continental Congress.—The first Continental Congress had passed a resolution that if no redress of grievances should be obtained a second congress should meet in May, 1775. Accordingly the second Continental Congress met in the State House, Philadelphia, on the 10th of that month. The Revolution having now become a fact steps were taken to carry on the war. An army and a navy were organized for

united resistance; foreign relations and Indian affairs were assumed; colonial ports were thrown open to all nations; a Continental loan and currency were authorized; and other sovereign powers were exercised that formerly belonged to the mother country alone.

INDEPENDENCE HALL, PHILADELPHIA

3. The Declaration of Independence.— So strong was the attachment for the mother country that what had been done by the "United Colonies" up to that time would have been undone, had Great Britain redressed their grievances. All the sovereign powers already assumed would have been laid at her feet. There was no general desire for independence before the King, in October, 1775, issued a proclamation denouncing the colonists as rebels, instead of giving ear to their second and last petition, as they had hoped he would do. All hesitation about independence was now at an end. Recommendations were made by Congress for the formation of State governments. On May 15,

1776, Congress voted "That it is necessary that the exercise of every kind of authority under the Crown of Great Britain should be totally suppressed." The colonies one after another then instructed their delegates to vote for independence. On June 7th Richard Henry Lee offered the resolution "That these United Colonies are, and of right ought to be, free and independent States," etc. This resolution was before Congress until July 2d, when it was adopted. Thomas Jefferson's Declaration of Independence, in which are set forth the reasons for Lee's resolution, was passed on the 4th of July, which day, and not the 2d, was destined to become "the most memorable epoch in the history of America."

4. The United States Under the Continental Congress. — At the same time that Jefferson's committee was appointed to draw up the Declaration of Independence another one was appointed to prepare a form of government. On the 12th of July, 1776, this committee, through its chairman, John Dickison, of Pennsylvania, reported the Articles of Confederation and Perpetual Union. The confederacy was styled "The United States of America." In framing the articles for a "Perpetual Union" all the previous experiments, from the New England Confederacy down to the Continental Congress, were studied. The colonial governments, the government of Great Britain, and the ancient and modern confederacies, likewise served as examples to imitate and avoid. A year and five months were spent before Congress finally adopted a draft of the Articles, November 15, 1777; and nearly three years and a half more elapsed before Maryland, the last State, ratified the instrument of government March 1, 1781.

In the meantime the government of the United States was vested in the Continental Congress and carried on in accordance with the plan of its organization, which in many respects was like the government outlined in the Articles of Confederation.

5. The United States Under the Articles of Confederation.—The Congress of the Confederation, like the Continental Congress, consisted of but one house, whose president was simply the presiding officer. The members—not less than two, nor more than seven from each State—were elected by the legislatures for a year, but could be recalled at any time to give place to others; and no member could serve more than three years in any term of six years. The voting was by States. Measures of great importance required the consent of all the States—those of less importance, of seven States. Amendments, after passing the Congress, had to be ratified by the legislatures of all the States.

Congress had power to declare war, make peace, issue bills of credit, borrow money, maintain an army and a navy, make treaties, coin money, and fix the standard of weights and measures. But it could not lay and collect taxes, raise troops, or carry out a single act that it might pass. It had no executive power to enforce its laws or judiciary to interpret them. It had but two judicial powers—to settle territorial disputes between States (exercised on one occasion between Pennsylvania and Connecticut) and to hear appeals in prize cases. The Congress acted on States and not on individuals. The laws of the confederacy were not commands, but recommendations.

6. The United States Independent.—By the treaty of

peace made by France, England, and the United States, in 1783, the independence of the United States was acknowledged. The government evolved in the course of the Revolution was now established; for it was no longer in danger of being overthrown by failure of the war.

CHAPTER IV

A MORE PERFECT UNION FORMED

1. Fatal Defects in the Articles of Confederation.—No government can endure without the power of raising taxes to support it and the power of raising armies to defend it; but these powers were lacking in the Articles of Confederation. As long as the war lasted the States honored the requisitions of Congress; but after that danger had passed they were very indifferent.

2. Bankruptcy Threatened.—The amount of money asked of the States from 1781 to 1788 was about $16,000,000. The returns were only about $500,000 a year—barely enough to pay the running expenses, to say nothing of the payment of interest. Congress, therefore, could not hope to borrow any more money, and the Government was on the brink of bankruptcy by 1787.

3. The Government Not Respected.—Lacking the power to support and defend itself, the Government was not regarded at home or abroad as sovereign. The States acted as independent nations. Being themselves on the verge of financial ruin, they laid duties on imports from other States and from foreign countries; but a lack of uniformity gave a monopoly of commerce to the States having the lowest duties. The gold and silver having all been sent abroad to pay interest and import duties the States issued immense amounts of paper money, and Congress could not restrain them. The paper money

depreciated. Debts could not be collected. Sheriffs' sales were daily occurrences. Lawlessness followed, and in some places, notably in Massachusetts, open rebellion against the State authorities broke out. Knowledge of these difficulties could not be kept from foreign nations—especially England. They expected the Confederation to go to pieces. They refused to make commercial treaties or to send diplomatic agents to represent them in the United States. To restore confidence abroad Congress asked the States three times to amend the Articles so as to give the Confederation power to regulate trade and commerce. Each time the amendment was defeated by a vote of twelve States to one.

4. **The Trade Convention.**—Early in 1786 a member of Congress declared that "Congress must be vested with more powers, or the Federal Government must fall." The idea that the form of Federal Government needed radical amendment now became general. At this critical juncture Virginia, which had the year before been in negotiation with Maryland for the regulation of trade on the Potomac River, invited all the States to send delegates to a trade convention at Annapolis, in September, 1786.

As only Virginia, Delaware, Pennsylvania, New Jersey, and New York were represented at Annapolis it was recommended to all the States that a convention meet in Philadelphia, in May, 1787, for the purpose of "rendering the Constitution of the Federal Government adequate." Congress approved the convention, and all the States, except Rhode Island, elected delegates.

5. **The Constitutional Convention.**—On May 25th a quorum of the sixty-five delegates elected assembled in

the State House in Philadelphia. George Washington was chosen President. Most of the members were men of Revolutionary fame. Franklin, now eighty-one years old, was the Nestor of the convention. Madison made more suggestions and speeches than any other member, and, as the author of the plan that was finally adopted, was unquestionably the leader on the floor. Hamilton was also a member, but because his colleagues left in disgust before the convention was over he had less influence than his ability merited. Moreover, he wanted to do away with the State boundaries and create a centralized republic. Gouverneur Morris, as chairman of the Committee on Arrangement, is to be credited with the clear and simple language of the Constitution. James Wilson was the best-read lawyer on the floor. Whatever of Blackstone was brought before the convention was always submitted to Wilson.

The convention lasted until September 17, 1787. The sessions were secret; all votes were cast by States. A journal was kept, but it was a mere outline of the proceedings. Madison kept a private journal of much greater value. It was not published until 1839—three years after his death.

Two plans were presented for the formation of a new government—the Virginia plan, drawn by Madison, and the New Jersey plan, drawn by Patterson. The Virginia plan provided that the Federal Government should have supreme executive, legislative, and judicial powers, and that representation in both houses of the Congress should be based on the population or the wealth of a State. This plan was favored by the large States. The New Jersey plan favored a revision of the Articles of

Confederation, so as to give Congress the power to regulate commerce, raise revenue, and coerce the States. It also provided for equal representation in Congress. The small States favored the New Jersey plan. The difference was compromised by adopting the basis of representation in vogue in the State of Connecticut, namely, popular representation in the lower house and equal representation in the upper.

The next difficulty caused a division of the States into free and slave. The free States wanted representation in the House of Representatives based on the number of free people; the slave States, on the number of free and slave. This difference was compromised by representing slaves as "other persons," five of whom should be equal to three free persons, both in the matter of representation and in the apportionment of direct taxes.

The third great difficulty which caused a division among the States was commercial and agricultural. New England, New York, and Maryland wanted questions of commerce decided by a majority vote; the agricultural States, by a two-thirds vote. The compromise effected was that a mere majority should decide commercial questions, but that exports should not be taxed, and that the importation of slaves should not be prohibited prior to 1808.

These three great compromises having been accepted there was no further danger of the dissolution of the convention. While the thirty-nine members who were still in attendance at the close were signing their names, Franklin looking toward Washington's chair, on the back of which was cut a sun, said to those around him: "I have often and often, in the course of the session, and

in the solicitude of my hopes and fears as to its issue, looked at that figure behind the President without knowing whether it was the rising or the setting sun. Now I know it is the rising sun."

6. The Ratification.—On September 28th Congress submitted the Constitution to the States for ratification, which had to be made by conventions of the people in nine States before it could go into effect. The smaller States, together with Pennsylvania, ratified it first. In the States of Massachusetts, New York, Virginia, and North Carolina the ratification was for months uncertain, and was only accomplished by very small majorities. North Carolina did not ratify it until after Washington had been President six months or more. Rhode Island, which was a commercial State and profited greatly by not being subject to the Federal impost, came into the Union a year and three months after the Constitution had gone into effect—and then only after a threat had been made by Congress that it would be treated as a foreign country. The Union of the thirteen States was then complete. The United States under the Constitution became a nation—that is, sovereign in all powers necessary for its perpetuity.

7. The Relation of the States to the United States.—The States are not related to the United States as the township and county are to the State. The State government is not the United States Government localized. The United States cannot make laws for the States, as the State can for township and county. The States are independent of the United States in all civil powers consistent with a republican form of government, except such powers as have been delegated to the United States

by the Constitution, or are prohibited by the Constitution to the States. The powers of the States are far more numerous than the powers of the United States.

The people and their property are subject to a double government—that of the State and that of the United States. The two governments operate together with perfect harmony, whether their jurisdictions cross or are parallel. Of course we come into contact with the State government vastly more than with the Federal Government; for the powers of the former are far more numerous than those of the latter. The daily affairs of most of us, except our business with the post office, are subject to State laws. But in case we come under the operation of a United States law we are likewise bound to comply with its demands. Both governments have the power to tax us for their support and to call on us for their defense. Under the Articles of Confederation the States alone had such power over the individual and his property.

CHAPTER V

THE CONSTITUTION OF THE UNITED STATES

TO THE TEACHER

In leading a class through the following chapter, please observe that the "Questions on the Sections" call for a close and analytic reading and study of the text of the Constitution. The author, instead of incorporating in his discussions of things needing explanation, the plain and simple statements of the Constitution, intends that such parts should be learned by the pupils from the Constitution itself. He believes it is better for the pupils to learn, for instance, so simple a matter as the qualifications of a Senator, directly in the Constitution, than in paragraphs written by himself. It is of little use to have the clauses of the Constitution before the eyes of the pupils, in the body of the author's text, if they are not read and studied.

The teacher should therefore insist on a thorough study of each set of "Questions on the Sections." The pupils will thereby acquire a much-needed intimate knowledge of the Constitution itself and form a habit of thoughtful, analytic reading that will be of value to them in other fields of study.

THE PREAMBLE

"We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

1. What it Shows.—The Preamble shows that the government under the Constitution, unlike that under the Articles of Confederation, was to be a union of the

people, not a league of the States. The Constitution clothes the United States Government with power to act directly upon the people without regard to State lines and without acting on the States.

2. An Enumeration of General Purposes.—The Preamble enumerates the general purposes of the Constitution. After the close of the Revolution the Articles of Confederation had failed to accomplish these purposes (see p. 31); and it was therefore natural that they should be enumerated in the Preamble, as a reason for the establishment of the Constitution. These general purposes have been of great importance to the courts in interpreting the Constitution; and the whole Preamble has been a great battle-ground for political parties in the United States.

3. The Term "Constitution."—As used in America the term "Constitution" implies a written instrument of government. That of the United States consists of seven articles and fifteen amendments, divided into sections and clauses. England has an unwritten Constitution. It does not consist of a single document drawn up at one time; it is the growth of centuries, and consists of charters, bills of rights, acts of Parliament, and legal usages and customs. The United States had to have a written Constitution, because the old-world forms and principles of government had been abandoned by our fathers and the new nation was too large and complex to wait for time to develop an unwritten Constitution. The United States continued without a written Constitution until the Articles of Confederation were adopted in 1781.

A constitution deals with what is general and perma-

nent, and leaves details and transitory matters to the legislative department. The subject-matter of the Constitution of the United States may be divided into:

(*a*) Forms—e. g., the two houses of Congress (Art. 1, Sect. 1).

(*b*) Powers—e. g., to lay and collect taxes (Art. 1, Sect. 8, Cl. 1).

(*c*) Principles—e. g., freedom of speech (Amendment 1).

(*d*) Definitions—e. g., treason (Art. 1, Sect. 3, Cl. 1).

Questions on the Preamble.—Who ordained and established the Constitution? Its purposes? Define *ordain*. What is *domestic* tranquillity?

THE DISTRIBUTION OF POWERS

4. The Three Powers of Government.—We cannot conceive of government—civil or any other—without these three powers: to make laws, to carry them out, and to explain and apply them. In the school all three are generally vested in the teacher; in the family, in the parents; in an absolute monarchy (see p. 12), in the monarch.

5. The Three Departments of Government.—In a government where the three powers are not vested in one or the same persons, departments are created for the separate exercise of these powers by different persons. The Constitution vests all legislative powers in Congress; the executive power in the President; and the judicial power in one Supreme Court and in such inferior courts as Congress may establish. Under the Articles of Confederation there was no such division of power. The Congress, besides being legislative, also exercised what little executive and judicial power the United States Government had.

ARTICLE I.—THE LEGISLATIVE DEPARTMENT

SECTION 1.—THE CONGRESS

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

6. The Two Houses.—The Congress, under the Articles of Confederation, was not divided into two houses; nor were the Legislatures of Vermont, Pennsylvania, and Georgia under their first State constitutions. Now the bicameral plan is universal. The object of the two houses is to prevent haste and lack of consideration. In making the Constitution much thought was given to checks and balances among the various factors of the government. Here we have the House of Representatives balanced against the Senate, and *vice versa*. At another place we find the President balanced, in some degree, against Congress. In all there are about eight such inventions in the Constitution.

Questions on the Section.—What is the name of the legislative department? What are its divisions called? What legislative powers are vested in Congress?

SECTION 2.—THE HOUSE OF REPRESENTATIVES

CLAUSE 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

CL. 2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Cl. 3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by [adding to] the whole number of [free] persons, [including those bound to service for a term of years, and] excluding Indians not taxed [three-fifths of all other persons]. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The

CHAMBER OF THE HOUSE OF REPRESENTATIVES IN THE CAPITOL AT WASHINGTON

number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative: and until such enumeration shall be made the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

Cl. 4. When vacancies happen in the representation from any

State the executive authority thereof shall issue writs of election to fill such vacancies.

Cl. 5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

7. The Nature of the House of Representatives.—The members of the House of Representatives are elected directly by the people; that is, each voter casts his ballot for the person he desires to have chosen. This branch of Congress represents the will of the people directly expressed, and is, therefore, directly responsible to them. It is often spoken of as the "popular" branch of Congress. The term of office was made comparatively short in order that the political opinions of the people may be frequently expressed. A member who performs his duties conscientiously and intelligently should be reëlected, because it requires at least one term to learn the rules well enough to take a prominent part in legislation. The House of Representatives has no executive function unless it be to appropriate the money necessary to carry out treaties in some cases. It has a judicial function in the power of impeachment.

8. Who May Vote for Representatives.—There are only two classes of United States officials elected by the people: members of the House of Representatives and (as will be seen farther on) members of the Electoral College. When the Constitution was made religious and property qualifications were variously required of an elector (voter) by the States. So diversified were these qualifications that if the Constitutional Convention had fixed upon some common test to be applied to all the United States, great dissatisfaction would have been caused. Therefore, it was left to the States to decide

who should vote for the Representatives in Congress. Any elector to whom the State has given the right to vote for a member of the most numerous branch (House of Representatives) of the Legislature is entitled to vote in that State at a Congressional election. The reason for this provision, at the time it was made, was that then many men who could not vote for a Senator could vote for a Representative in a State legislature, owing to a difference in the qualifications as to age and wealth. That fact then made the lower House of Congress more truly representative of the people. Now no such differences in the qualifications of electors exist. In many of the States women have been granted equal suffrage with men. In these States women may now vote for Congressmen and presidential electors, as well as for the State officials.

9. The Residence of a Representative.—A Representative may live in any part of a State, though custom has decreed that he must be a resident of the district which he represents. In Great Britain candidates for the House of Commons often stand for election outside of the district in which they live.

10. The Federal Ratio.—The words "three-fifths of all other persons" are known as "the Federal ratio," and they constitute the second great compromise made in the Constitutional Convention (see p. 34). The phrase "all other persons" was used to avoid the word *slave*, which is not found in the Constitution outside of the Thirteenth Amendment.

11. Parts Void and Dead.—That part of Clause 3 providing for representation by the three-fifths rule, and also the word "free" have been made void by the Thirteenth

Amendment. The part relating to the laying of direct taxes was left standing, but it is void along with the other. Clause 3 in conjunction with the Thirteenth Amendment now omits the parts enclosed by brackets.

The part providing for the number of Representatives to be elected by each State until the first census should be taken is dead. The total number was sixty-five. The largest possible number in the Continental Congress had been ninety-one. There were now to be twenty-six Senators. Subtracting twenty-six from ninety-one the framers of the Constitution took the remainder to constitute the total number of members in the House of Representatives until a census should be taken.

12. **Direct Taxes.**—A direct tax is not defined in the Constitution; but the Supreme Court has decided that the term must be applied to a poll or capitation tax and to a tax on real or personal estate or the income therefrom. No poll tax was ever laid by Congress; but other direct taxes have been laid on three occasions—in 1798, when war with France was imminent, in the war of 1812, and in the Civil War. According to the sixteenth amendment, Congress now has power to lay and collect taxes on incomes, regardless of the source of the income, and without apportioning the tax among the States according to their population.

13. **Apportionment of Representatives.**—In the earlier apportionments Congress used to decide first upon the number of people that a member should represent. After the first census the number was made 33,000. Now the first and most important thing to be decided on is the number of Representatives. The entire population of the States, according to the last census, is

divided by this number when it has been determined; the quotient obtained is the *ratio of representation.* The population of each of the States entitled to more than one Representative is then divided by this *ratio of representation.* The quotients will be the number of members these States will have respectively, except that each State having more than half a ratio unrepresented gets an additional member. By the apportionment based on the census of 1910 the ratio of representation is 212,919. The number of Representatives is 435. The House has been made larger, for some years, with every apportionment, in order not to diminish the representation in the States that showed no increase in population and yet give increased representation to those that had become more populous.

14. Congressional Districts.—The Constitution says that Representatives shall be elected by the people of the several States. Until 1842 some States elected their Representatives by districts, others at large. Since then Congress has required them to be elected by districts. The districts are made by the State legislatures, usually at the session following a new Congressional apportionment; they must be made up of contiguous territory, and contain, as nearly as possible, a population corresponding to the ratio of representation.

To gain party advantage the districts are sometimes made with much unfairness. The party in control of the Legislature at the time the districts are made maps out the State in such a way that as few districts as possible will be of the opposite political complexion. As a consequence some very oddly shaped districts are made. This method of districting a State is called

"gerrymandering." Elbridge Gerry, of Massachusetts, at one time contrived a scheme by which one of the districts looked like a lizard. The celebrated painter, Gilbert Stuart, seeing a map of Gerry's districts in the office of an editor, added a head, wings, and claws to the peculiar district and exclaimed: "That will do for a salamander." "Call it a Gerrymander," said the editor, and the name has been in use ever since. The first attempt at this sort of political trickery was made by Patrick Henry, who tried in this way to keep Madison out of the first Congress.

It sometimes happens that a State does not rearrange its districts immediately after its number of Representatives is increased by Congress. Until the Legislature attends to the matter the additional member or members are then elected by the State at large. Chosen in this way a Representative is known as a *Congressman-at-large.*

15. **The Speaker.**—The Speaker of the House of Representatives is one of its own members, and therefore may vote on all questions, but the rules do not require him to vote, except in case of a tie or when a vote is by ballot. He is the third officer of the Government in point of rank; but the second in point of power, because through his decisions and applications of the rules he determines, to an extent, the character of the laws to be passed. Furthermore, when a member wishes to speak or make a motion he must first be recognized by the Speaker, and when two or more rise at once he names the one that is to have the floor.

16. **Other Officers.**—The other officers are not members of the House. The Chief Clerk is in charge of the records. His term does not expire until after

the new House has been organized, for he makes up its roll and presides at its opening until the Speaker has been elected. In a few instances the Chief Clerk has presided for six or eight weeks before the House could agree on the election of a Speaker. Other officers of importance are the Sergeant-at-arms, the Doorkeeper, the Postmaster, and the Chaplain.

17. Impeachment.—The power of impeachment is judicial in its nature. By this power the House may resolve that an officer shall be impeached for specified offenses, and bring the charges, or articles of impeachment, before the Senate. These articles are like an indictment in a criminal court.

Questions on the Section.—The term of a Representative? Age? How long a citizen? How long in this country? Where must he live? Why not have merely the age of a voter? Why require him to be a citzen for a number of years? Why an inhabitant of the State? How is the number of people on which Representatives and direct taxes are based determined in each State? When had the census to be taken first? How often must it be taken? When is it taken? How many Representatives would the House have now if there were one for every 30,000 people? Which States have but one Representative? Find out, also, whether any States have the same number now that they had in the first Congress. How are vacancies in the House filled? Which two States had the most Representatives in 1789? Which two have the most now?

Section 3.—The Senate

Clause 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Cl. 2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the ex-

piration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

Cl. 3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Cl. 4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

Cl. 5. The Senate shall choose their officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

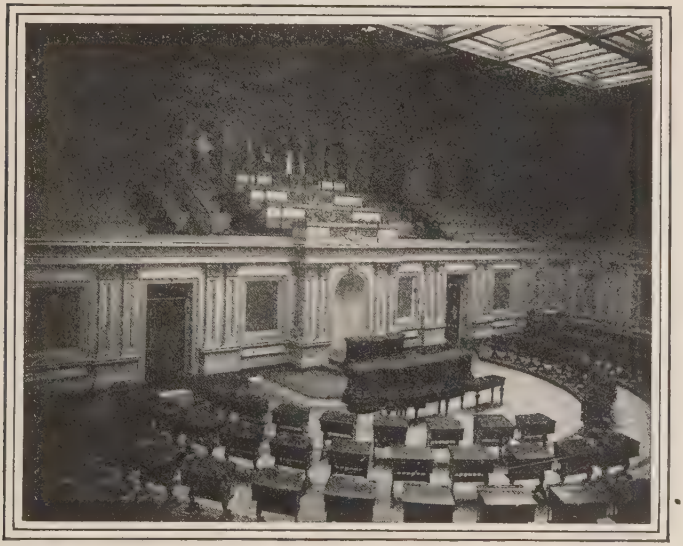
Cl. 6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Cl. 7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

18. Nature of the Senate.—The Senate is the Federal branch of Congress. Its members represent the States, but are not subject to instruction as to their votes by any State authority, not even by the Legislature. Every Senator may and should vote as his judgment and conscience dictate. The framers of the Constitution intended the Senate to be an exalted body, and therefore made the term of office long and the age limit high.

19. Voting in the Senate.—The first clause of this section is a part of the first great compromise in the Constitution (see p. 34). When equality of representation in the Senate had been decided upon by that

compromise the next question was, How many Senators shall a State have? Two, the number agreed upon, was the smallest number of Representatives a State was entitled to under the Articles of Confederation. Each Senator having one vote there can be no tie resulting in the loss of the vote of a State, as was so often the case in the Continental Congress.



THE SENATE CHAMBER IN THE CAPITOL AT WASHINGTON

20. The Senate a Continuous Body.—Two-thirds of the Senators having respectively two or four more years to serve at the end of every two years the Senate is continuous; that is, as a body it never expires. This provision prevents the Senate from being entirely new and inexperienced, as it is possible for the House to be.

21. Vacancies.—When a vacancy occurs in the repre-

sentation of a State, the Governor issues writs of election to fill it; but the Legislature may empower him to make an appointment until the people fill the vacancy.

22. The Vice-President and the Senate.—If the Vice-President had a vote in the Senate, as the Speaker has in the House, the State to which he belongs would have three votes, which would destroy the equality of representation. He does not, nor does the Speaker of the House, appoint the standing committees. They are selected in both Houses in such a way as to give the members a voice in the selection.

23. Other Officers and the President Pro Tempore.—The other officers of the Senate are practically the same as those of the House (see p. 46). In the absence of the Vice-President—and he generally absents himself for this purpose at the beginning of his term—the Secretary of the Senate takes the chair while an election of a President *pro tempore* is held. He serves for an indefinite time, generally until his term expires, unless his party is reduced to a minority in the meantime. By providing for this officer of the Senate the Constitution makes it possible for the Vice-President to evade the performance of the only duty assigned to him.

24. The Trial of Impeachments.—When the House of Representatives agrees upon articles of impeachment (see p. 47) it appoints a committee of managers from among its own members to prosecute the case before the Senate. Both the committee and the accused may employ attorneys, and both sides may have witnesses. The Senate is both judge and jury; otherwise the trial is conducted in the same way as before an ordinary court.

25. Penalty in Case of Conviction.—Since judgment, in case of conviction, shall not extend *beyond* removal from office and disqualification for office it would appear that the Senate *may* or *may not* punish to that extent. But by Article II, Section 4, the penalty *must* be removal at least. The Senate cannot mitigate that penalty; but it may or may not add the further penalty of disqualification to hold office under the United States. The Senate cannot punish by imprisonment or fine; but the convicted officer may be tried in the courts and made to suffer whatever penalty the law provides for his crime.

26. Cases of Impeachment and Conviction.—There have been nine cases of impeachment brought before the Senate by the House of Representatives: one, that of a United States Senator, was not tried by the Senate for want of jurisdiction, it being held that Senators and Representatives are not "civil officers" (see p. 96); five resulted in acquittal, the most noted of which being that of President Johnson; and three resulted in conviction, the penalty in one case being simply removal from office, in the others both removal from, and disqualification for, office.

Questions on the Section.—How many Senators are there now? Who elects Senators? How many votes has a State in the Senate? What classification of Senators was made in the first Congress? What was it for? How are vacancies filled? The qualifications of a Senator? What officer is President of the Senate? When may he vote? What provision is made for his absence? What officer presides in case the President is on trial before the Senate? What pledge must the Senators give for the performance of their duty when they try an impeachment case? How many votes are necessary to convict? What does "according to law" mean?

SECTION 4.—BOTH HOUSES, OR THE CONGRESS

CLAUSE 1. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

CL. 2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

27. The Election of Senators.—The place of choosing Senators was left with the State Legislatures; otherwise, as long as the Senators were elected by the Legislatures, Congress would have had the power to say where the capital of a State should be. Since the adoption of the seventeenth amendment, Senators are elected by a direct vote of the people at their polling places. The time of the election of Senators is regulated in the same way as that of Representatives (see par. 28). It used to be the second Tuesday after the meeting and organization of the Legislature. On that day each house voted separately. The next day a joint meeting was held and the person who had received a majority of the votes of each house was declared elected. If no one received such a majority, joint meetings were held every day until some one had a majority of the joint assembly.

Since 1881, repeated efforts have been made in Congress to secure an amendment to the Constitution, so as to provide for the election of Senators by popular vote. The House on several occasions favored the submission of such an amendment to the States; but the Senate, prior to 1912, stoutly opposed it.

28. The Election of Representatives.—By an act of

Congress Representatives are elected on the Tuesday next after the first Monday in November of the even years; but Maine and Vermont have different days designated in their Constitutions for this purpose and do not come under the law of Congress as long as they make no new Constitution. The elections are held at the regular polling places in the Congressional districts. Nearly all the States elect also their State officers on this day.

The power of making or altering the regulations governing the elections of Senators and Representatives was given to Congress to prevent the State legislatures from annihilating the Union by failing to choose persons to administer its affairs.

29. A Congress and its Sessions.—A Congress covers a period of two years, beginning on March 4th of the odd years. The Fifty-ninth Congress began March 4, 1905. A Congress has a long and a short session. Each begins on the first Monday in December. The long, or first session, ends at various times—usually lasting until midsummer following—while the short, or second session, must end at 12 o'clock noon, March 4, of the second year.

Questions on the Section.—What matter relating to the election of Senators may Congress not regulate? Could Congress forbid the use of the Australian ballot in the election of Representatives? On what day of each year does Congress convene? How long after the election of Representatives before their term begins? Before the first session begins?

Section 5.—The Houses Separately

Clause 1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the at-

tendance of absent members, in such manner, and under such penalties as each house may provide.

Cl. 2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior and, with the concurrence of two thirds, expel a member.

Cl. 3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Cl. 4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

30. **Contested Seats.**—If there is a contest about the election of a member to either house of Congress, such contest must be settled by that house, and not by the courts. A score or more of seats are sometimes contested in the House of Representatives. They are generally given to the claimants belonging to the majority party in the House. In the Senate a contest is usually confined to the question whether a Senator was lawfully elected, and not whether he or some one else was elected. In a contest between two claimants the one having a certificate of election is allowed to occupy the seat until the decision is made.

31. **Returns and Qualifications.**—"Returns" are the reports made by the election officers on the results of an election. "Qualifications" include the Constitutional qualifications of age, citizenship, and residence, as well as others that either house may require for admission. The House of Representatives, in 1900, refused admission to a polygamist; and more recently a member voluntarily gave up his seat because he had knowledge of corruption at his election.

32. The Rules of Proceedings.—As the Senate is a continuous body its rules, with occasional modifications, remain in force from one Congress to another. In the House of Representatives a new code is made, or the old one is readopted, at the beginning of each Congress. The most radical change made in recent years in the rules of the House of Representatives was that of determining a quorum. Until the Fifty-first Congress a quorum was determined by counting the members present and voting. In that Congress it was determined by counting the members present, whether voting or not. That rule has been followed ever since. The Senate, however, has not adopted it.

A Representative may not speak longer than one hour on any question, without permission from the House; a Senator may speak as long as he pleases. There is no previous question to force a vote—no *clôture* of any kind—in the Senate. The consequence is that there is more filibustering in the Senate than in the House.

33. Disorderly Conduct.—This offense has its source mostly in heated discussion and rarely exceeds a war of words, for which a censure may be voted. Suspension and expulsion are rare, because thereby the constituents of the offender are deprived of representation.

34. Secrecy in Congress.—The sessions of the Continental Congress were secret, except that when French relations were under consideration the French Minister was allowed to be present. The sessions of the Senate were held in secret for a few years after the Constitution had gone into effect. Now all sessions of both houses are open, except the "executive sessions" of the Senate, at which treaties and Presidential appointments are

considered, and whose proceedings are published once in about fifty years. The House may at any time be cleared of all visitors if any confidential communication has been received from the President or some other source.

35. The Two Houses Not to Obstruct Each Other.—By requiring both houses to work on the same days and at the same place, neither can delay or obstruct the work of the other. But it was wise not to make the requirement absolute; for one house may have less work than the other at certain times and may then want to adjourn for more than three days. Furthermore, in time of danger, such as Congress faced in Philadelphia when the yellow fever raged there, or in Washington during the war of 1812 and the Civil War, both houses may be anxious to adjourn to some other place. That Congress has thought of such contingencies is shown by the fact that it has authorized the President to convene it elsewhere than at Washington if its safety should be at stake.

Questions on the Section.—What constitutes a quorum in Congress? What may be done with less than a quorum? How may a quorum be secured? What officer brings in absent members? How many members need vote for a penalty less than expulsion? For expulsion? How does the public learn what Congress does? Why should anyone want to call for the yeas and nays? How many must call to have them taken? What good does it do to record them in the journal? Can either house adjourn from Thursday to Tuesday?

Section 6.—Compensation, Privileges, and Disabilities

Clause 1.—The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective

houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Cl. 2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

36. Salaries of Congressmen.—Both Senators and Representatives receive $7,500 a year; the Speaker of the House, $12,000, and the President *pro tempore*, $12,000, in case there is no Vice-President. Mileage at the rate of twenty cents a mile is allowed, once for each session, for travelling expenses to the Capital and return by the most direct route of usual travel.

37. Extent of Freedom from Arrest.—Freedom from arrest extends only to minor offenses; nor can a Congressman be detained by a summons as a witness or juror. If he is under arrest for a petty offense when Congress is about to meet, he must be set free, that his constituents shall not be deprived of representation. There have been times when two political parties were so nearly equal in number that a few arrests of members in the majority would have put the minority in power in one or both branches of Congress.

Questions on the Section.—Do the States pay the Congressmen? How are their salaries fixed? For what crimes may a Congressman be arrested when on duty? When is a Congressman free from arrest for other crimes? Can he be arrested for assault and battery? To whom is a Congressman not accountable for what he says in Congress? To whom is he accountable? Why this freedom of speech? Does it apply also to the speeches in the "Record" published by Congress? Under what conditions can a Congressman not resign to accept an office under the United States? Can he resign to

become an army or navy officer under the same conditions? Can a postmaster be a member of Congress?

Section 7.—The Making of Laws

Clause 1.—All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Cl. 2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objection at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Cl. 3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

38. The Committee on Ways and Means.—This is the committee to which all revenue bills are referred for consideration before final action is taken on them by the House. It frames the tariff and other important revenue bills. A tariff act generally takes its name from the Chairman, as the Dingley Bill, the McKinley Bill. The Senate has no such committee, because it

does not originate revenue bills. When revenue bills come to the Senate from the House, they are referred to the Finance Committee.

The revenue from all sources, except the postal service, for the year ending June 30, 1910, was $675,511,715; while the expenditures were $659,705,391. The receipts in 1791 were $4,409,950, in 1860, $56,054,600; the payments were $3,097,453 and $40,948,383.

Bills for the expenditure of money may originate in either house; but the practice is for most of them to originate in the House of Representatives. Before 1865 the Ways and Means Committee had charge of the appropriation bills as well as of the revenue bills. Since then there has been a separate Appropriation Committee in the House—in fact it has several associate committees. The Senate, too, has an Appropriation Committee.

The Secretary of the Treasury, at the beginning of each regular session, sends to Congress estimates of the funds needed in the various departments for the next fiscal year. These estimates form the basis of the appropriation bills.

39. Other Committees.—There are from fifty to sixty standing committees in each House—one for every subject of legislation that comes up regularly in every session. Each member is on a committee and some are on several.

40. Mode of Passing Bills.—The mode of procedure in passing bills is nearly the same in both houses. After the committee, to which a bill introduced by some member was committed for consideration, makes its report the clerk takes the bill as reported by the committee and has it printed for distribution among the

members. The bill is then read three times on three separate days (the three readings, by unanimous consent, may all be ordered on one day). After the second reading the bill is debated and amendments may be made. The bill is then read a third time, when it is voted upon as amended. If it receives a majority of the votes it is passed and taken to the other house for concurrence. There it goes through the same process. If it passes with amendments the bill is returned to the house in which it originated, for concurrence in the amendments; but the original bill, having been once debated by the first house, is not again the subject of debate. If the amendments are adopted the presiding officers of both houses sign it and it goes to the President for his signature. If the house in which the bill originated does not adopt the amendments of the other house the bill fails to pass; unless a conference committee, composed of a few members from each house, is appointed and succeeds in arranging a compromise. In that event each house will pass the bill as reported by the conference committee.

41. **"A Pocket Veto."**—If Congress sends a bill to the President less than ten days before adjournment, and he does not sign it, his not signing it amounts to a veto. This is called "a pocket veto." It was first employed by President Jackson. In order to avoid "pocket vetoes" of bills which the President wants to become laws he has to work very hard during the last hours before adjournment, signing such as were delayed to the last day of the session.

42. **No Laws to be Passed in Disguise.**—Either house may pass an order or a resolution affecting itself only, or

both houses may pass a concurrent resolution expressing merely their views on some subject, without submitting the same to the President. Other orders and resolutions must be passed in the same way as bills, and then they have the same legal effect.

Questions on the Section.—Where must revenue bills originate? What power has the Senate on them? To which house must the President return a vetoed bill? What must accompany the veto of a bill? What is done with his objections? How is a bill passed over the President's veto? Why require the yeas and nays? How may a bill become a law without the President's signature? How may it fail without his veto? What kind of resolutions, etc., need not be signed by the President?

Section 8.—The Powers of Congress

The Congress shall have power

Clause 1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

Cl. 2. To borrow money on the credit of the United States;

Cl. 3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

Cl. 4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

Cl. 5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

Cl. 6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

Cl. 7. To establish post offices and post roads;

Cl. 8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

Cl. 9. To constitute tribunals inferior to the Supreme Court;

Cl. 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

Cl. 11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

Cl. 12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

Cl. 13. To provide and maintain a navy;

Cl. 14. To make rules for the government and regulation of the land and naval forces;

Cl. 15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

Cl. 16. To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

Cl. 17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—and

Cl. 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.

43. Taxes.—The term "taxes" here means direct taxes (see p. 44). There are two reasons why the United States does not often resort to direct taxation. One is that the wealth of a State and its population are not always proportionate. A State with the same population as another may have twice as much wealth as the first. Yet, if a direct tax is laid, the two must pay the same share of it (see p. 41). The other reason is that the States and their local governments employ direct taxation; and if the United States did likewise too much of the burden of taxation would be on real and personal property.

44. Indirect Taxes.—A direct tax, in the broad sense of

the word, is laid directly on the person who must finally pay it, as a house tax, income tax, dog tax, poll tax, etc. An indirect tax is laid on commodities. It is paid first by the manufacturer, producer, or merchant, but finally by the consumer, as a part of the price. The indirect tax is more easily borne, because people pay it without knowing that they are taxed. Indirect taxes consist of duties, imposts, and excises.

45. Duties and Imposts.—Duties include taxes on imports and exports; imposts mean taxes on imports only. The United States is not permitted to tax exports; hence duties and imposts mean the same thing in this connection. A schedule of rates is called a tariff. The object of a revenue tariff is to produce revenue only. A protective tariff is to check imports and encourage the domestic production of such articles. A prohibitive tariff is intended to prevent importation altogether. The revenue collected at the custom houses of the United States, for the year 1910, amounted to nearly $333,683,445, in a total revenue of $675,511,715.

Duties are of two kinds—*ad valorem* and specific. An *ad valorem* duty is a certain per cent. of the value of the goods on the invoice; for example, twenty-five per cent. on the cost of a shawl. A specific duty is a fixed sum levied on a certain quantity, as a bushel or a pound; for example, two cents on a yard of calico.

46. Excises.—Excises are taxes on the manufacture and sale of commodities. This being a tax on domestic articles, it is called the "internal revenue." The chief objects so taxed are alcoholic liquors and tobacco. The internal revenue for 1910 was about $289,933,519.

47. Borrowing Money.—If a sudden necessity for more money than it is prudent to raise by taxation arises, as in time of war, Congress borrows money. The debt so incurred is guaranteed by the power of taxation. Borrowing money is a device for distributing an extraordinary expense among more than one generation. A government usually borrows money by the sale of bonds, payable at a certain time, with interest. At the close of the Civil War our debt was nearly $3,000,000,000.

48. Important Commercial Laws.—The most important laws of Congress, passed by virtue of its power over commerce, are those which

(*a*) Protect shipping by means of lighthouses, buoys, and life-saving stations.

(*b*) Regulate navigation by establishing ports of entry and clearing, by registering vessels under the United States flag, by excluding foreign vessels from the coast trade, and by levying tonnage duties.

(*c*) Control immigration by exclusion acts and test acts.

(*d*) Regulate interstate commerce through the Interstate Commerce Commission.

(*e*) Control trusts.

(*f*) Establish Indian agencies and reservations.

49. Naturalization.—To become a citizen an alien must declare, upon oath, before a United States court or a State court having common-law jurisdiction, at least two years before his naturalization, that he intends to become a citizen and to renounce his allegiance to his own country, and to any title of nobility, should he have one. If he has complied with this requirement and has been a resident within the United States for at least five years,

and one year within the State or Territory in which he applies for citizenship, he receives his naturalization papers, provided he has been a person of good moral character while in this country and loyal to the Constitution. A minor who has resided in the United States three years immediately before becoming of age may, after arriving at his majority and after having been a resident five years, including the three years of his minority, become a citizen, if he makes oath that it has been his intention for two years to become a citizen. The children of persons who have been duly naturalized, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof. The children of persons who are or have been citizens of the United States, are, though born out of the limits and jurisdiction of the United States, considered as citizens thereof. Honorably discharged soldiers and seamen, being foreigners and having served under the United States flag, may become citizens without complying with all the conditions imposed upon other foreigners.

Only white persons and persons of African descent can be naturalized by present laws. The naturalization of Chinamen is expressly prohibited by a law of 1882; and it has been refused to Japanese; but a child born in the United States of such parents is a citizen. Sometimes whole communities have been naturalized by a treaty or law of Congress, as in the case of the people of Louisiana and Texas, when they were annexed to the United States.

50. Bankruptcy.—A bankrupt law is one by which

an insolvent debtor may settle with his creditors and become free from further legal obligation to pay the debts not settled in this manner. When no law of Congress exists in reference to bankruptcy State laws on the subject are in effect. Congress has passed and repealed three such laws, and a fourth is now in operation.

51. Coining Money.—Coin is money made of metal. The coining of money is done at mints. There are mints at Philadelphia, San Francisco, New Orleans, Carson City, and Denver. We have gold, silver, and copper coins in the United States. Copper is used as an alloy in the gold and silver coins, nickel with copper in the five-cent piece, and tin and zinc with copper in the cent. Anyone can have any amount of gold coined into money free of charge. This is free and unlimited coinage. Silver is not so treated, and has not been since 1873, because the market value of the silver in the dollar has been worth only about fifty cents for some years. The half-dollars and other subsidiary silver coins do not have so much silver proportionately as the dollar; while the metal in the two minor coins is worth still less in proportion to their face value. It follows that the Government, in making silver and minor coins, has a profit. This profit is known as seigniorage.

52. Legal Tender.—This is money that must be accepted by a creditor in payment of a debt. Some of the coins are legal tender for certain amounts only. The silver coins below the dollar are legal tender up to ten dollars; the minor coins up to twenty-five cents. All gold coins and silver dollars are legal tender to any amount.

53. The Value of Coin.—In 1900 the gold dollar was

made the standard of money in the United States. If the value of a silver dollar were regulated by the amount of silver it contains, the coin would have to be much larger than it is; for the silver in it is worth much less than the gold in a gold dollar. But the Government guarantees the silver dollar to be equal in value with the gold dollar. The value of foreign coins is determined by finding the amount of gold or silver in them and comparing it with the amount in our standard.

54. Weights and Measures.—Congress never exercised much authority over weights and measures. It adopted the English Troy pound and made the metric system legal if used. But outside of its scientific applications the metric system has never found great favor in the United States. In 1901 a National Standardizing Bureau was established in the Treasury Department, where standards used in all the applied sciences are kept. Scientific instruments need no longer be sent to Europe to have them standardized.

55. Counterfeiting Securities and Current Coin.—The securities of the United States are its paper money and bonds. There is a large variety of paper money in circulation. The "greenbacks" are simply promissory notes, without interest, passing as money. They were issued in the time of the Civil War to pay current expenses until money could be raised by taxation and the sale of bonds.

National bank notes, as the name indicates, are issued by national banks. These notes pass for money because every dollar of them is secured by United States bonds, bought by the banks and deposited with the Treasurer of the United States.

Gold and silver certificates are certificates of deposit; that is, the gold and silver which they represent are on deposit in the United States Treasury. The certificates are more convenient to handle—especially in large amounts—than gold and silver coins.

All these forms of paper money, as well as the silver money, by a law passed in 1900, must be kept at a parity of value with gold. The gold and silver certificates and the national bank notes are not legal tender; but as they are well secured and may be exchanged for legal tender money, they circulate readily.

As so much of the currency in daily use is paper money, the notes would be counterfeited extensively if Congress had not passed very stringent laws against counterfeiting and passing counterfeit money.

56. Post Offices and Post Roads.—Out of the power of Congress to establish post offices and post roads has grown the greatest business concern in the world. An ex-Postmaster-General said: "It handles more pieces, employs more men, spends more money, brings more revenue, uses more agencies, reaches more homes, involves more details, and touches more interests than any other human organization, public or private, governmental or corporate." The receipts and expenses increase from year to year in large amounts. In 1904 they were about $150,000,000; in 1910, about $225,000,000. There are about 65,000 offices now, as against seventy-five in 1790, when the revenue was $38,000. Carrier routes, railroads and canals, and waters in the United States, while mail is carried thereon, are post roads. The less important routes, over

which mail is not carried by railways or steamboats, are known as "star routes," because designated in the books of the Postal Department by stars.

57. Copyrights and Patents.—Congress, for the public good, has secured authors and inventors for a limited time in their respective writings and discoveries. A copyright is good for twenty-eight years and may be renewed for another fourteen years. A patent is good for seventeen years, but may be extended by special act of Congress. During these years the author or inventor, or the person in whose name the patent or copyright is registered, has the sole right to make and sell what he has copyrighted or patented. Our copyright laws protect foreign publications, provided they come from countries which protect our publications; but such literary products must be printed from type set in the United States. The patent office is self-supporting.

58. Piracies and Felonies.—Piracy is robbing on the high sea or upon the coast by descent from the sea, committed by persons not holding a commission from any established state. Felonies are grave crimes. The "law of nations," or international law, determines the conduct of the general body of civilized states in their dealings with one another. The jurisdiction of a State in the United States, having a seacoast, ends with the low-water mark. The United States has jurisdiction beyond that line and extending three miles into the ocean, including gulfs and bays. Beyond the three-mile limit jurisdiction is determined by the flag of the vessel —the United States having jurisdiction over crimes committed on vessels floating its flag.

59. The Military Powers.—The military powers of

Congress include declaring war, granting letters of marque and reprisal, providing an army and a navy, providing for the calling out of the militia and making laws for its organization and training. While Congress declares war, the President, as commander-in-chief of the army and navy, determines when it shall close; but Congress shall make no appropriation for more than two years for the use of the army and navy.

60. Letters of Marque and Reprisal.—These are commissions granted to private persons and ships in time of war to seize the property of the enemy. Ships to which such letters are granted are called privateers. Privateering has been abandoned by our country as well as by most other civilized nations. Captures of the enemy's property are now made by the army and navy only.

61. The Army.—As now constituted the army consists of not less than 57,000 men and not more than 100,000. Its general oversight is entrusted to the General Staff, composed of the heads of several bureaus in the War Department (see p. 89). The Staff is auxiliary to the President as *ex-officio* commander-in-chief. The officers and non-commissioned officers of the army, from the highest to the lowest in rank, are lieutenant general, major general, brigadier general, colonel, major, captain, first and second lieutenant, first sergeant, sergeant, and corporal.

62. The Navy.—Since 1883 our navy has been enlarged so much that it is excelled in strength by but two or three European nations. It is claimed that our country needs a strong navy for the defense of its islands in the sea and the protection of its commerce. The general direction of naval affairs is under a General Board,

auxiliary to the Secretary of the Navy (see p. 90). The grades of officers are admiral, rear admiral, commodore, captain, commander, lieutenant commander, lieutenant, master, and ensign.

63. **Appropriations to the Army.**—In order that no standing army may be kept up by the executive arm of the Government against the will of the people, appropriations for its maintenance cannot be made for a longer period than two years.

64. **Military Law.**—The laws of Congress by which the land and naval forces are governed and regulated constitute what is known as "military law." Offenses under this law are not tried by the civil courts, but by military courts called "courts martial." There is no jury trial. From five to thirteen officers are appointed by the general in command, to try cases.

65. **Martial Law.**—In time of war it sometimes becomes necessary to suspend the civil law over territory occupied by the army, and put such territory under martial law, that is, under military authority—the civil courts being superseded by military courts.

66. **The Militia.**—The militia consists of all able-bodied male citizens, and foreigners who have declared their intention to become citizens, between the ages of eighteen and forty-five years. The part of the militia organized into regiments by the States constitutes the National Guard. It is primarily intended for use by the State, but may be mustered into the service of the United States in the same way as the unorganized militia. At the outbreak of the war with Spain qualified members of the National Guard were taken into the service of the United States as volunteers. The militia could not be

called out, because the war was not declared to execute the laws of the Union, to suppress insurrection, or to repel invasion.

A naval militia has also been organized in some States. In time of war the men are used to take the place of the regular force on vessels defending harbors.

67. The District of Columbia and Other Ceded Places.—The affairs of government in the District of Columbia are administered by three commissioners appointed by the President. The citizens do not exercise the elective franchise. Congress passes the laws required for the District; but much of the legislation is shaped by the commissioners. Half of the public expenses are met by taxation and half by Congressional appropriation.

Numerous purchases of land have been made in the States by the Federal Government for post offices, custom houses, forts, arsenals, dock yards, etc. When the State legislatures cede the control of such lands to Congress they generally reserve the right to serve all State processes, civil and criminal, upon persons found in the ceded places, in order to prevent such places from becoming asylums for fugitives from justice.

68. The Implied Powers.—The last clause among the powers of Congress has been variously designated as the "elastic clause," the "enacting clause," the "sweeping clause." Together with the Preamble it has been the great battle ground between political parties since the Constitution went into effect. There are two kinds of powers given to Congress—the expressed powers, comprising the first seventeen clauses, and the implied powers, comprising the eighteenth, or last, clause. One party, the strict constructionists, has held to the letter

of the Constitution, limiting Congress to such powers as are expressly stated. The other, the loose constructionists, has given a more liberal construction to the Constitution, relying especially for authority to do so upon the "elastic clause," and on certain parts of the Preamble. In establishing the United States Bank, Congress for the first time exercised its power of making "all laws necessary and proper for carrying into execution" one of its expressed powers, namely, the power of collecting taxes and borrowing money. Congress exercises much more implied power now than it did a hundred or even fifty years ago.

Questions on the Section.—For what purposes may Congress lay and collect taxes, etc.? What power has Congress over commerce? Can a higher rate of duty be charged at New York than at Boston? Why should commerce with tribes of Indians not be regulated by the States? Why should Congress coin money and fix the standard of weights and measures? Why is counterfeiting punished? What are copyrights and patents? What are they for? What courts may Congress establish? Are appropriations to the navy limited to two years? For what may the militia be called forth? What power has Congress over the militia? The State? Over what places in a State does Congress exercise authority? Whose consent must Congress get before it can exercise such authority? Commit the eighteenth clause to memory, also the Preamble.

Section 9.—Powers Forbidden to Congress

Clause 1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Cl. 2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Cl. 3. No bill of attainder or ex-post-facto law shall be passed.

Cl. 4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Cl. 5. No tax or duty shall be laid on articles exported from any State.

Cl. 6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

Cl. 7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Cl. 8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

69. The Slave Trade.—The clause on the slave trade was a part of the third great compromise in the Constitutional Convention. As slavery was on the decline after the Revolutionary War, all the States but three—the Carolinas and Georgia—had already forbidden the importation of slaves from foreign countries. In deference to South Carolina and Georgia the importation was tolerated by the Constitution for twenty years. The tax, however, was never imposed. A law of Congress, carrying out the constitutional prohibition, went into effect January 1, 1808; but there was so much evasion of the law that in 1820 the slave trade was declared to be piracy, punishable with death. Only one man was executed under the law of 1820.

70. Terms Defined.—The writ of *habeas corpus* ("you may have the body") is awarded by a judge to an officer to produce before the court the body of a prisoner, for

the purpose of inquiring into the cause of imprisonment. If the cause is insufficient the prisoner is set free; if not, he is remanded to jail. This writ applies also to cases of detention other than for crime; for instance, where a person is unlawfully in an insane asylum, or where a child is held by the wife when the husband is entitled to it.

Bills of Attainder are special acts of a legislature inflicting capital punishment upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction by the ordinary course of court proceedings. If an act inflicts a milder degree of punishment than death it is called a bill of pains and penalties. In other words it is punishment without a court trial.

An Ex-post-facto ("after the deed is done") law is one which renders an act punishable in a manner in which it was not punishable when it was committed. It applies to acts of a criminal nature only.

71. Suspension of the Writ of Habeas Corpus.—The Constitution is silent as to who may suspend the writ. In a few cases in which it was suspended, namely, in the Civil War, the act was done by the President. The Supreme Court attempted to restrain him, but failed. Congress afterwards approved Lincoln's action and gave him power to suspend the writ, but took it away again from Johnson. So it is now understood that this power belongs to Congress, to be exercised by that body itself, or to be delegated to the President.

72. Export Duties.—That export duties are forbidden was an advantage to the agricultural States alone, in 1787. The clause was inserted in the Constitution as a part of the third great compromise (see p. 34); but

now nations generally consider it poor policy to tax exports and thereby increase the price at which they must be sold in foreign markets to compete with other countries.

73. Uniformity of Commercial and Revenue Laws.—The States, under the Articles of Confederation, had enacted many laws injurious to one another in domestic and foreign trade. It was said that New Jersey, suffering from such laws passed by Pennsylvania and New York, was "like a barrel tapped at both ends." North Carolina, Connecticut, and Maryland were also victims of such practices. Maryland was afraid Virginia might stop ships on their way to and from Baltimore, for the purpose of exacting duty.

74. Coastwise, Lake, and River Trade.—All commerce along the coast and on rivers and lakes must be carried in ships built in American shipyards; but foreign ships may engage in our foreign trade.

Questions on the Section.—For how long a time was the slave trade allowed? How much tax could be collected on each person imported? When may the writ of *habeas corpus* be suspended? Could Congress have included more than three-fifths of the slaves, in laying a capitation tax? Define *enter* and *clear*. Can a vessel from New York be made to pay duty at Boston? How is money drawn from the Treasury? Can anybody receive a title of nobility from the United States? May a citizen of the United States receive such a title from a foreign country? May an office holder? What may an office holder not receive, and from whom not? May a private citizen receive such? May an office holder receive a gift from a private citizen?

Section 10.—Powers Forbidden to the States

Clause 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender

in payment of debts; pass any bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

Cl. 2. No State shall, without the consent of the Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and impost, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

Cl. 3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships-of-war, in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

75. Powers Forbidden to the States.—Most of the powers forbidden to the States are such as may be exercised by the United States. A few are forbidden to both.

76. Treaties, Alliances, and Confederations.—If the States could make treaties and form alliances and confederations it would be in their power to involve themselves and the whole country in a war—foreign or civil. If Texas could regulate the intercourse of its people with Mexico, or New York with Canada, and so on, there would be no stability in the relations with our foreign neighbors.

77. Bills of Credit.—From the time of King William's War down to the adoption of the Constitution, the legislatures, first of the Colonies, and then of the States, issued bills of credit, or paper money. In fact, one of the reasons for abandoning the Articles of Confederation was the excessive use of paper money by the States (see p. 31). When Congress issued the "greenbacks," or treasury notes (see p. 67), it was a question whether the

United States could issue bills of credit. Some statesmen argued that if the States were prohibited from doing so, it was evident that the prohibition extended to Congress also. But the Supreme Court held that Congress could emit bills of credit and make them legal tender.

78. Impairing the Obligation of Contracts.—A contract is an agreement "to do or not to do a particular thing" that is legally binding. No State shall pass a law by which a contract may be broken. This provision is in civil cases what the provision about the *ex-post-facto* law is in criminal cases.

79. Inspection Laws.—A State may pass a law for the inspection of oil, cattle, food products, etc., and collect the cost of inspection from the owners. Such laws must not be made with the intent of protecting the dealers, but the people, of the State.

80. With the Consent of Congress.—Instances in which States have obtained the consent of Congress for imposing duties on foreign imports are rare. South Carolina did so on one occasion in behalf of the city of Charleston, which wanted the revenue thus raised for some municipal improvements.

Questions on the Section.—For what purpose may a State lay a duty on imports without the consent of Congress? For what purposes must it have consent from Congress? What must be done with the net proceeds? What must be done before such State laws can go into effect? What is tonnage? When may a State engage in war without the consent of Congress?

ARTICLE II.—THE EXECUTIVE DEPARTMENT

SECTION 1.—THE PRESIDENT AND VICE PRESIDENT

CLAUSE 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

CL. 2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding any office of trust or profit under the United States, shall be appointed an elector.

CL. 3.* The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the highest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

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* This clause has been superseded by the 12th Amendment, which follows immediately.

ARTICLE XII.—The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate;—the President of the Senate shall in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted;—the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

CL. 4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

CL. 5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person

be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years resident within the United States.

Cl. 6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly until the disability be removed, or a President shall be elected.

Cl. 7. The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Cl. 8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

81. Nature of the Executive.—One of the great defects of the Government under the Continental Congress and the Articles of Confederation was the lack of executive power. Having just freed themselves from the power of "a Prince whose character was marked by every act which may define a Tyrant," the States were very cautious in creating the executive. History furnished other examples where the executive power had brought ruin upon the state, or had "sunk under the oppressive burden of its own imbecility." The Constitutional Convention therefore carefully considered whether there should be any executive department, whether it should consist of one or more than one person, and what should be the term of office. The necessity of an executive was quite apparent; but some favored a triple-headed

executive—one person from each of the three sections of the Union, New England, the Middle States, and the South. The term of office had first been fixed at seven years, without eligibility for reëlection. To secure energy and responsibility in the office and safety to the people, the executive was made single and the term reduced to four years, not prohibiting reëlection. Nine Presidents have been honored with a second term; and an effort was made to nominate one—President Grant—for a third term. So far we have escaped the dangers of tyranny, though there is great power lodged in the executive. Some Presidents were pronounced tyrants by political opponents at the time, but history gives no such name to any of them.

82. Presidential Electors.—The Presidential electors are the persons who directly elect the President and Vice-President. Each State chooses as many presidential electors as it has Senators and Representatives in Congress. The whole number constitutes the Electoral College. The presidential electors of each State are frequently called the Electoral College of that State. The Electoral College of the United States consists of 531 members. Members of Congress and persons holding positions of profit or trust under the United States are prohibited from serving as presidential electors.

83. Nomination and Election of Presidential Electors.—Each political party in a State nominates a ticket of Presidential electors, usually at a State convention. A voter, as a rule, votes for all the candidates on his party's ticket, and, as a consequence, the presidential electors chosen in a State are generally of the same political party.

Occasionally voters will "scratch" an electoral ticket and thereby elect a divided Electoral College in a State. In 1892 the electoral vote of five States was divided: in California and Ohio, because the vote for Cleveland and Harrison electors was close; in Michigan, because by act of the Legislature each Congressional district voted separately for an elector; in Oregon, because one of the four candidates for electors on the Populist ticket was also on the Democratic ticket, the result being three Republicans and one Populist elected; in North Dakota, because one of the two Populist electors who were elected cast his vote for Cleveland, thus causing the electoral vote of the State to be equally divided between Cleveland. Harrison, and Weaver.

Presidential electors at first were quite generally elected by the State legislatures. South Carolina followed this practice until the Civil War.

84. The Election of President and Vice-President.— The election of President and Vice-President, or rather of the presidential electors, is held on the first Tuesday after the first Monday in November, in the year when a President is to be chosen. Usually it is known by the next morning which political party has elected a majority of presidential electors; but the last act in the election of a President and Vice-President takes place more than three months after Election Day. The presidential electors meet on the second Monday in January following their election, usually at the Capitol of their respective States, and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State as themselves. Three lists of the persons voted for for each office are made, each list

showing the number of votes each candidate has received. The electors sign, certify, and seal these lists, and deposit one with the judge of the district court of the United States for the district in which the electors meet. The other two are sent to the President of the United States Senate, one by mail, and one by special messenger.

85. Counting the Electoral Votes.—On the second Wednesday in February following both houses of Congress meet in joint convention, when the President of the Senate opens the sealed lists, and the votes are counted. The persons receiving a majority of all the votes cast for President and Vice-President respectively are declared elected. If no person receives a majority of all the electoral votes cast for President the choice of that officer devolves upon the House of Representatives, the selection being made from the three candidates receiving the highest number of electoral votes. Each State has but one vote, and a majority of the Representatives from each State casts the vote of that State. When a vote for President is taken in the House of Representatives there must be present one or more members from at least two-thirds of all the States, and a majority of all the votes is necessary to a choice. At least one vote is taken every day, but if no choice is made before March 4th, the day on which the presidential term begins, the Vice-President serves as President. Only two Presidents have been chosen by the House of Representatives, Thomas Jefferson, for his first term, and John Quincy Adams.

The Vice-President is chosen at the same time and in the same manner as the President, except that when

the electors fail to elect that duty devolves upon the Senate. The choice must then be made from the two candidates having the highest number of votes cast by the Electoral College. Richard M. Johnson, elected in 1837, has been the only Vice-President chosen by the Senate.

86. Minority Presidents.—Eleven times the successful candidate for President failed to get a majority of the popular vote, that is, a majority of all the votes cast for presidential electors. The ones so elected are known as minority Presidents.

87. Nominations for President and Vice-President.—It was intended by the Constitution that the Electoral College should choose for President and Vice-President the men whom they considered best fitted for these offices; but since the time of John Adams the electors have been pledged to vote for candidates already nominated. The nominations were at first made in caucuses held by the Congressmen of the various political parties; then by State legislatures and local conventions; finally, in Jackson's first administration, the Anti-masons, in 1831, nominated candidates in a National Convention. The following year the National Republicans and the Jackson Democrats also held a National Convention, and since 1840 this method has been employed by all parties. Thus the longest clause in the Constitution has largely become a dead letter.

88. Qualification of Birth.—That the term "natural-born" would apply to a man born abroad, of American parents, as were General Meade, ex-Speaker Crisp, and Mayor McClellan, of New York, all of whom have had the honor of being mentioned for the Presidency, is a matter

of conjecture; for there has never been any occasion to test the question. The exception made in favor of foreign-born citizens at the time of the adoption of the Constitution was a mark of respect to such men as Alexander Hamilton, Robert Morris, James Wilson, and others who were delegates to the Constitutional Convention.

89. Presidential Succession.—In the case of the removal, death, resignation, or disability of both the President and Vice-President, the following line of succession has been provided for by Congress: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and Secretary of the Interior. Any of these officers, however, would only be acting-President, and should any of them not have the constitutional qualifications he could not act. Prior to 1886 the line of succession was President *pro tempore* of the Senate and Speaker of the House, in the order named. The two offices of President and Vice-President have never both become vacant in a presidential term.

90. Compensation.—The respective salaries of the President and Vice-President are $75,000 and $12,000 a year. Prior to 1873 the President received $25,000 a year, and from 1873 to 1909, $50,000. He has also the use of the White House, with fuel, light, furniture, care, and allowances for entertainment.

91. The Inauguration.—At the inauguration, besides taking the oath, the President makes an address, setting forth his views and policies as to the affairs of the Government. By custom, the Chief Justice administers the oath.

Questions on the Section.—President's term of office? May he be reëlected? Are Presidental electors appointed by the States or the United States? What is the present manner of appointing them? What used to be the manner? How many electors from each State? From all the States? What persons cannot serve as electors? What is the difference between the 12th Amendment and Clause 3? Do the States determine the time as well as the manner of electing electors? What are the qualifications of a President? Why shall not both the President and the Vice-President be of the same State with the electors? Why should the votes in the House of Representatives be taken by States? What is a quorum when the House elects? How many votes are required to elect? Has the Vice-President ever succeeded the President? If so, how often and for what reasons? What condition is laid down for a change in the President's salary? What limitation is put upon his emolument? What oath does he take? When does he take it?

Section 2.—The President's Powers

Clause 1. The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

Cl. 2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Cl. 3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

92. The President's Military Powers.—In time of peace the President, as chief executive, carries out the laws without any other force than the occasional arrest of individuals. But as he is also Commander-in-Chief of the army and navy, he may use the military in case of a riot or widespread resistance to the laws of the United States. Washington, Hayes, and Cleveland had occasion to use the army in this way. However, the real exercise of his military powers can take place only in time of war; and then he may actually take command in person, though he has never done so. Though Congress has the power to declare war, the President may, as Commander-in-Chief, have to begin war before Congress can act. So great are the President's military powers that he may put large sections of the country under martial law (see p. 71).

93. The President's Cabinet.—The Cabinet of the President, consisting of the heads of the ten great executive departments, is not directly authorized by the Constitution. It was taken for granted that executive departments would be created, for Clause 1 says that the President "may require the opinion in writing, of the principal officer of each of the executive departments upon any subject relating to the duties of their respective offices." But an organization of the heads of the departments into an association, namely, the Cabinet, has no legal standing. Its resolutions cannot bind the President, and he may dispense with it at any time.

The Cabinet has stated meetings at the White House twice a week, when affairs of state are discussed orally, but seldom in writing. The opinions so expressed are invaluable to the President in determining his policies

and actions, and equally so to the heads of the departments.

94. The Executive Departments.—The executive departments have been established as follows: State, Treasury, and War Departments, September, 1789; Post-Office Department, 1794; Navy Department, 1789; Interior Department, 1849; Department of Justice, 1870, although Congress had created the office of Attorney-General in 1789; Department of Agriculture, 1889; Department of Commerce, 1903; Department of Labor, 1913. The salary of a Cabinet officer is $12,000 a year.

95. The Secretary of State.—He has charge of all the affairs between our Government and others. He conducts the correspondence with our ministers and other agents in foreign countries and with the representatives of other countries here. All communications respecting the making of treaties are under the direction of this department. It also files all acts and proceedings of Congress and attends to the publication of the same and their distribution.

96. The Secretary of the Treasury.—He has charge of all moneys paid into the Treasury, of all disbursements, the auditing of accounts, and the collection of the revenue. The department supervises the coinage of money, the national banks, and the Bureau of Engraving and Printing. The marine hospitals are under its direction, and it controls the regulation and appointments of all custom houses. It also supervises the life-saving service, and has control of the National Board of Health.

97. The Secretary of War.—He has control of the army. Aided by the General Staff, he organizes and equips the army and directs its movements. He attends to the

paying of the troops and the furnishing of supplies, and supervises the erection of forts and the work of military engineering. He has in charge the publication of official military records. The Military Academy at West Point, the War College at Washington, and the national cemeteries are under the control of the War Department, and so is the government of the Philippines.

98. The Attorney-General.—The Attorney-General is required to act as attorney for the United States in all suits in the Supreme Court. He is the legal adviser of the President and the heads of departments, and of the Solicitor of the Treasury. He is further charged with the superintendence of all United States district attorneys and marshals, with the examination of all applications to the President for pardons, and with the transfer of all land purchased by the United States for government buildings, etc. The name "Department of Justice," by which this division of executive power is now largely known, was given to it in 1870.

99. The Postmaster-General.—He has the supervision of all the post offices of the country, their names, establishment and discontinuance, the modes of carrying the mail, the issue of stamps, the receipt of the revenue of the office, and all other matters connected with the management and transportation of the mails. The United States is a member of the International Postal Union, organized for the purpose of uniform rates from one country to another.

100. The Secretary of the Navy.—The Navy Department was at first included in the War Department, but in 1798 the two branches of the military service were separated. The Secretary of the Navy supervises the

building and repairing of all vessels, docks, and wharves. He is charged with the enlistment and discipline of the men and furnishes all supplies. The Naval Academy at Annapolis and the Naval Observatory at Washington are under the Navy Department.

101. **The Secretary of the Interior.**—This department has charge of all matters relating to the sale and survey of the public lands, the adjudication and payment of pensions, the treaties with the Indian tribes of the West, the issue of letters patent to inventors, the collection of statistics on the progress of education, the supervision of the accounts of railroads, and the receiving and arranging of printed journals for Congress, and other books printed and purchased for the use of the Government.

102. **The Secretary of Agriculture.**—This department, which prior to 1889 belonged to the Department of the Interior, collects and disseminates useful information on agriculture. From it new and valuable seeds and plants can be had, for it is the duty of the Secretary to cultivate them and to furnish them to the farmers upon application. He investigates the diseases of plants and animals, makes analyses of soils, minerals, liquids, and fertilizers, and prepares reports on the same, which are distributed in all parts of the country. In 1891 the Weather Bureau was transferred from the War Department to the Agricultural Department.

103. **Secretary of Commerce.**—The province of this department is to foster and promote foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, and the transportation facilities of the United States. It controls the lighthouse service, inspection of steamboats, bureau of navi-

gation, shipping, bureau of standards, coast survey, bureau of statistics, census office, and fish commission.

Secretary of Labor.—The Department of Labor seeks to promote the welfare of wage-earners and to improve working conditions. Immigration, labor statistics, naturalization, and the children's bureau are also under this Department, which was set off from the former Department of Commerce and Labor in 1913.

104. Treaties.—The leading subjects dealt with in treaties are commerce, amity, peace, alliances, indemnities, boundaries, and privileges. The President may delegate the power to make treaties to the Secretary of State, or to our minister in the country with which he wishes to treat. "By and with the advice of the Senate" does not mean that he must consult that body in the negotiations. Yet, as the Senate has a committee on foreign affairs, he usually consults that committee.

105. Appointment of Officers.—The number of positions to be filled under the Federal Government is nearly 250,000. Of these the President appoints some 5,000 directly. He is generally guided in the exercise of this power by the advice of the Cabinet, collectively and individually, and the members of Congress from the States and districts where the applicants reside. Besides those named in the Constitution as subject to his appointment, the President fills the most important positions in Washington, the first three classes of postmasterships, collectorships all over the United States, and military and naval appointments.

106. The Civil Service.—Until recent years all civil appointments, except Federal judges and special commissions, were made for four years. This practice began

in 1820 in the Treasury Department and was made general by President Jackson. From Jackson's time down to 1883 every change of administration, especially when a new party came into power, was followed by a "clean sweep" of the offices. The consequence was that the Civil Service fell into inexperienced and even inefficient and corrupt hands, and this risk was run every four years. To reform this evil Congress, in 1883, passed the Civil Service law, creating a Civil Service Commission of three persons, not more than two to belong to the same political party. Applicants for the Civil Service in the executive department, except for positions filled by the President, with the consent of the Senate and for places of unskilled labor, are now, by the rules of the Civil Service Commission, tested by competitive examination; and if they receive an appointment they cannot be removed, except for just cause and upon written charges.

107. The Diplomatic Service.—The persons through whom our Government transacts political business with other nations at their capitals are the diplomatic agents. Their duty is to act upon instructions coming from the President through the Secretary of State. In this capacity they help to make treaties and other agreements and to establish such international relations as are conducive to the welfare of the United States.

There are different ranks of diplomatic agents, or ministers: (*a*) Ambassadors, or those sent to England, France, Germany, Russia, Italy, Austria, Brazil, Mexico, Turkey, Japan; (*b*) envoys extraordinary and ministers plenipotentiary; (*c*) ministers resident; and (*d*) *chargés d'affaires*, or those not accredited by the President to the ruling person of a foreign country (as is

the case with the first three classes), but by the Secretary of State to the minister of foreign affairs, of the country to which they are sent. The last named are sometimes merely temporary agents until a duly accredited minister arrives. The United States has ministers at the capitals of about forty countries of the world. Several nations have purchased homes for their legations at Washington —something we have never done for our ministers abroad.

108. The Consular Service.—The persons appointed to look after our commercial interests abroad are called consuls. They are classified as consuls-general, consuls, and consular agents. They report upon trade conditions, indicate wherein our commerce may be benefited, certify invoices, examine emigrants, etc. The service requires about 1,100 persons. Five consuls-general—one each for Europe, Asia, Africa, and North and South America—are appointed to visit every consulate at least once in two years, and report to the State Department. Any one in the service receiving $1,000 salary or more, must be an American.

109. Removal from Office.—The President can remove an officer not subject to the Civil Service rules, by nominating and, with the consent of the Senate, appointing a successor. If the Senate is not in session any vacancy may be filled by the President alone; but if the Senate does not confirm the appointment at its next session the commission of such an officer expires at the end of that session, and the President makes a new nomination.

Questions on the Section.—What military power has the President? When has he control of the militia? What authority has he for consulting the heads of the departments? What is a reprieve? a pardon? a commutation? Can the President pardon a man

convicted under a State law? What exception is made to his pardoning power? How many votes at least are required now (1906) for the Senate to concur in a treaty? What appointments is the President authorized by the Constitution to make? In whom may Congress vest powers of appointment? How are vacancies that happen in a recess of the Senate filled?

Section 3.—Presidential Duties

1. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

110. Legislative Functions of the President.—When the President informs Congress, through his message, as to the need of legislation, he is in a measure helping to make laws. So also when he gives his consent to a bill or vetoes it, or calls Congress into extra session; but when he calls an extra session of the Senate to confirm appointments, which he always does immediately after his inauguration, he is performing an executive function.

111. Recognition of a Foreign Government.—When the President receives an ambassador from a foreign country, the act is an acknowledgment of friendly relations. In case a newly established government, as that of Panama in 1903, sends a minister, his reception is a recognition of its existence as an independent nation.

112. Commissions.—A commission is a certificate stating definitely the powers conveyed to an officer. It is sealed, by the Secretary of State, with the Great Seal of the United States.

Section 4.—Removal by Impeachment

The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other higher crimes and misdemeanors.

113. Causes for Impeachment.—Judging by the cases of impeachment on record, "high crimes and misdemeanors" include, besides treason and bribery, the abuse of power, intemperance, violence, and neglect. Mere laxity or incompetence in office is not sufficient cause. For offenses not impeachable, unless the President dismisses officers guilty of such, there is no remedy.

114. Civil Officers.—The term "civil officers" is here used in distinction from army and navy officers, who are tried for offenses by courts-martial (see p. 71). Nor does the term include Senators and Representatives. They are amenable to their respective houses.

Questions on the Section.—On what authority are the President's messages to Congress based? When may he adjourn Congress? On what occasions may he call extra sessions? What is the President's most common duty? Who may be impeached?

ARTICLE III.—THE JUDICIAL DEPARTMENT

Section 1.—The United States Courts

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

115. Their Necessity.—One of the fatal defects of the Articles of Confederation was that the United States

had no judiciary. The laws of Congress were applied and interpreted by thirteen different and independent courts, from which much contradiction and confusion proceeded. Frequently the laws were not enforced at all, or—what was worse—power not granted by them was usurped by the rulers. Accordingly a Federal judiciary was established. It was made coördinate with the legislative and executive departments, and independent of them in everything except the appointment of judges. It is not possible for Congress or the President to usurp powers not granted them by the Constitution, nor can the States suspend the operations of the Union. Montesquieu once said: "There is no liberty if the judiciary be not separated from the legislative and executive powers." His ideal was realized in the Constitution of the United States.

116. **The United States Courts.**—In addition to the Supreme Court, established by the Constitution, Congress has, by law, created certain inferior courts: district courts, circuit courts of appeal, the court of claims, the court of customs appeals, the commerce court.

117. **The District Courts.**—Every State has at least one district court; the larger ones have as many as four. Usually one judge is appointed for each district. There are about eighty districts in the United States.

118. **Circuit Court of Appeals.**—There are nine circuits in the United States, each including several States, and each having a circuit court of appeal regularly presided over by judges, from two to four in number. To each court is allotted also a justice of the Supreme Court, who, when present, is to preside.

119. The Court of Customs Appeals and the Commerce Court.—The former is a court of five judges that hears appeals about the duties imposed on imported goods. The commerce court hears appeals from the Interstate Commerce Commission. Its five judges are selected periodically from among the circuit judges at an additional salary of $1,500 per annum.

120. The Supreme Court.—The Supreme Court holds its annual sessions in the Capitol at Washington, beginning the second Monday in October. It consists at present of nine justices—one chief justice and eight associate justices—any six of whom constitute a quorum for the transaction of business. The decision of a majority of the quorum stands as the decision of the court, although frequently the dissenting opinion of a member or members of the minority is handed down.

121. The Court of Claims.—As it is a rule of governments that they cannot be sued without their consent, Congress, in 1855, established the Court of Claims, in which suits may be brought against the United States. If this court holds a claim to be valid Congress may, and usually does, make an appropriation to pay the claim.

122. Other Courts.—Other courts have been established by Congress, but their jurisdiction does not affect the whole United States. The courts of the District of Columbia have jurisdiction over civil and criminal matters in the District.

123. The Territorial Courts.—These consist of a supreme court, district courts, and, in some instances, county courts, presided over by the judge of the district in which the county is located.

124. Consular Courts.—These are held by our consuls in foreign countries. The cases consist of trivial matters arising between Americans and foreigners in business transactions, of the administration of estates of Americans dying within the consular district, and of the settlement of disputes between officers of American vessels and their crews.

125. Appointment of Judges.—All judges of the United States courts proper are appointed by the President, with the consent of the Senate, and they hold office during good behavior, which means for life. Any judge having served ten years may resign at the age of seventy, and receive full pay for life. The term of office in the District of Columbia and the Territories is four years.

126. Compensation.—The compensation of the Chief Justice of the Supreme Court is $15,000 per annum; of the associates, $14,500; of the circuit judges, $7,000; of the district judges, $6,000; of customs, $7,000.

Questions on the Section.—What court was established by the Constitution? Name the inferior courts of the United States. Name the other courts formed by Congress. Why must Congress not diminish the salaries of judges during their continuance in office? Why does the prohibition not extend to an increase?

Section 2.—Jurisdiction of the United States Courts

Clause 1. The judicial powers shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more States;—between a State and citizens of another State; between citizens of different States; be-

tween citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.

Cl. 2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

Cl. 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

127. Test for Jurisdiction.—The jurisdiction of the United States courts is determined by the nature of the case or by the nature of the parties. If the nature of the case involves the Constitution, laws, or treaties of the United States, jurisdiction is established no matter who the parties may be. If the nature of the parties involves ambassadors, consuls, the United States, two or more States, citizens of different States, etc., jurisdiction is established no matter what the nature of the case may be.

128. Jurisdiction of the Supreme Court.—The original jurisdiction of this court is confined to matters affecting foreign countries and the States of our own country. Necessarily such cases are very important. Its appellate jurisdiction extends to all the inferior United States courts, as well as to State courts in certain cases. Appeals from a State court are allowed only when the Supreme Court of that State has rendered a decision that is claimed to be in violation of the Federal Constitution or some Federal law or treaty.

The function of pronouncing upon the constitutionality

of a law of Congress was first exercised by the Supreme Court in 1803, the opinion being delivered by Chief Justice Marshall. He showed that unless the Supreme Court could set aside a law conflicting with the Constitution, Congress would be unrestrained in the use of the legislative power. This court may even take exception to the Constitution or laws of a State when repugnant to the Federal Constitution. Laws declared unconstitutional are null and void and cannot be enforced. Laws are sometimes in force for years before they are declared unconstitutional, because a law in the abstract cannot be brought before a court to test its constitutionality. The test must be made in connection with the trial of a case.

129. **Jurisdiction of the Circuit Court of Appeals.**—This court reviews by appeal decisions of the district courts, except in cases which may be taken direct to the Supreme Court. There is no appeal from it in patent, copyright, revenue, criminal and admiralty cases.

130. **Jurisdiction of the Court of Customs Appeals and the Commerce Court.**—The former shall have final appellate jurisdiction to review decisions respecting the classification of merchandise and the duty imposed on it, as well as the fees and charges connected therewith. The decisions of the commerce court may be appealed to the Supreme Court.

131. **Jurisdiction of the District Courts.**—It embraces all crimes and offenses against the authority of the United States, admiralty and maritime cases, bankruptcy proceedings, suits for penalties, and civil cases in general under Federal jurisdiction.

132. Concurrent Jurisdiction of the United States and State Courts.—While, as a rule, the United States and State courts have exclusive jurisdiction in certain classes of cases, there may be instances of concurrent jurisdiction. A citizen of a State may sue a citizen of another State in the courts of the other State, if he prefers. However, if the defendant shall base the defense on a United States law he may have it removed to a Federal court. Where there are both Federal and State laws, as against counterfeiting, the plaintiff may likewise exercise his preference; also in cases under the postal laws and State laws involving the United States Constitution. But no State court has final jurisdiction if by its construction of a Federal law it in any way abridges Federal authority.

133. "Law and Fact."—When a case is appealed the Supreme Court may review both the law and the facts, that is, the law and the evidence; but the witnesses themselves are not present, nor is there a jury sitting. The whole case is brought before the appellate court by means of a printed record of the proceedings in the lower court. From this record and the lawyer's arguments, the appellate court makes up its decision.

A case may also be brought before the appellate court by a writ of error, which calls only for a review of the law; that is, the judge's decisions and charge to the jury, in the inferior court.

134. "Law and Equity."—Equity is applied to cases for which the law has no remedy. To try such cases separate courts used to exist here and in England; but now the courts of law try cases of equity too, except in a few of the Southern States. The most common service of a court of equity is to prevent wrongdoing—as the

granting of injunctions—and to give relief for a wrong already inflicted, as the relief from fraud in bargains.

Questions on the Section.—To what shall the judicial power extend? What courts have jurisdiction of crimes on board American ships? Recite the authority for your answer. Can a foreign nation sue a State in the United States courts? In what event may two citizens of the same State have a case in the United States court? To what is the original jurisdiction of the Supreme Court limited? Its appellate jurisdiction extends to what? How must the trial of all crimes be conducted? What exception is made? Where must such trials be held? Where would a pirate or a mutineer be tried?

Section 3.—Treason

Clause 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Cl. 2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

135. Definition of Treason.—There are but few definitions in the Constitution. That of treason is one of them. If there were many the Constitution would have been amended much more than it has been, for definitions are fixed and unyielding.

135. Punishment of Treason.—When the Constitution of the United States was made the laws against treason in some countries were barbarous. They permitted indescribable horrors to be practiced, such as disemboweling, beheading, and quartering of the traitor, after he had forfeited his life on the gallows. Nor was this all the punishment. He forfeited all his property to the Government, both what he then had and what might come

to him by inheritance, and his heirs could never get any of it. Such destruction of inheritable qualities is known as "corruption of blood." Our punishment for treason is death, or, at the discretion of the court, fine and imprisonment.

Questions on the Section.—Define treason. Was the Whisky Rebellion treason? What had Aaron Burr done to make him appear guilty of treason? Blennerhassett? What are the conditions for conviction of treason? Will a confession to a witness convict? How long may the Government hold the property of a traitor in forfeiture?

ARTICLE IV.—THE STATES AND TERRITORIES

Section 1.—Official Acts

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

137. To Make the Union More Perfect.—In order to prevent the States from becoming involved in confusion and litigation the official acts of one State shall be accepted in another, as if they were its own official acts. A judgment rendered in a court in Pennsylvania is ground for an action of debt in the State of New York. A will duly recorded in one State, if it affects property in another, must be accepted in the other when it comes to the disposition of such property. Public acts, that is, legislative acts, are proved by having the State's seal attached. Court records are proved by the seal of the court and the signature of the clerk and judge.

Section 2.—Privileges of Citizens

Clause 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Cl. 2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

Cl. 3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

138. Discriminations Not Permissible.—No State is permitted to discriminate against the citizens of other States, as one nation may against the citizens of another. No passports can be required, ownership of property cannot be denied, justice cannot be withheld, no exclusive legislation can be passed, etc.; but no special privileges or immunities of one's own State can be secured in other States by this provision. The fact that a woman can vote in Colorado does not give her the right to vote in a State where women are not allowed to vote. A license to practice medicine in one State need not be accepted in another. It is only the privileges and immunities which belong to us as citizens of the United States that cannot be abridged by a State.

139. Extradition.—When a criminal escapes from the State which has jurisdiction over his crime into another State, an indictment or complaint under oath is laid before the Governor of the former State; and he is in duty bound to issue a demand, called a requisition, accompanied by the indictment or affidavit, on the Governor

of the latter State, for the arrest and delivery of the criminal. The arrest can be made before the requisition is honored, but his delivery to the accredited officer must await action on the requisition.

Extradition between this country and foreign countries is regulated by treaty, the States having nothing to do with fugitives from abroad. The Secretary of State makes out the extradition papers.

140. Fugitive Slaves.—The first law of Congress on this question was passed in 1793; the second, which was much more drastic, was a part of the Compromise of 1850. By the latter the return of a fugitive slave was secured from a United States commissioner; while under the law of 1793 the local magistrate decided that question.

Questions on Sections 1 and 2.—Why must a divorce legally granted by one State be recognized in another? By whose authority are laws made for proving State official acts? Can runaway apprentices be returned from other States? A member of a "chain-gang"? What department of a State government shall return fugitive criminals?

Section 3.—New States and Territories

Clause 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

Cl. 2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

141. Requirements for Admission of New States.—When the Constitution was adopted it was evident that

new States would have to be admitted. The vast regions between the Appalachians and the Mississippi were already partly organized under a territorial government, and settlements were rapidly spreading from the Lakes to the Gulf. A Territory need not have any required population for admission. Politics has more to do with it than population; yet a Territory has better chances for admission when it has a population equal to the ratio of apportionment (see p. 45) or more. However, Nevada got into the Union, in 1864, with a population of half the ratio of apportionment; and Oklahoma was refused with a population of more than double the ratio.

142. Method of Admission.—It is usual for Congress to pass an "enabling act" authorizing the people of the Territory to frame and adopt a constitution, and providing for the admission of the State by proclamation of the President. Sometimes the Territory takes the first step by framing a constitution, and, with this in hand, applying for admission. In either case Congress must see to it that the new State shall have a republican form of government.

143. Division of States.—The States formed by means of a division of other States are Maine and West Virginia. In the case of the latter the Legislature of old Virginia never gave its consent. After Virginia had seceded, in 1861, the forty-eight counties in western Virginia that remained loyal to the Union were organized as the State of West Virginia. It was claimed that Virginia having placed herself outside the Constitution by the act of secession the only legislative body within the State was that at Wheeling, which consented to the organization of the new State, and that the Constitution had therefore

been complied with. Texas, by the conditions of its admission, may be divided into five States at the will of its people.

144. **The Government of Territories.**—This is either of the organized or the unorganized form. In the organized Territory the Governor or other executive officers, and generally the judges, are appointed by the President. The Legislature is elected by the people in districts. Its laws must be approved by Congress. The people do not participate in national affairs beyond sending a delegate to Congress, who may debate but not vote. The organized Territories at present (1910) are Hawaii, Porto Rico, and the Philippines.

The unorganized, or lower form, through which most Territories passed before they were fully organized, provides only for an executive and a judiciary or a council. There being no Legislature, the executive and judiciary or council have joint legislative powers. Alaska is an unorganized Territory.

Our Samoan Islands, the Philippines, and others in that part of the world belonging to the United States, are known as our "insular possessions." A new classification of Territories was made by a decision of the Supreme Court: one forming "a part of" the United States—Alaska; and those "belonging to" the United States—Hawaii, Porto Rico, the Philippines, Guam, the Sulu Islands, and our Samoan Islands.

145. **Origin of the Territories.**—The lands ceded to the United States by certain States after the Revolution gave rise to the Territory. They comprised the present States of Ohio, Indiana, Illinois, Michigan,

Wisconsin, and a part of Minnesota. Most of the productive land secured at that time, and all since obtained by annexation, has been sold to settlers, given to railroads, schools, and colleges, and reserved for parks, forestry, and Indian tribes.

Section 4.—Protection of the States

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence.

146. A Republican Form of Government.—As long as the Senators and Representatives of a State are admitted to Congress the republican character of that State is thereby admitted. So if a State ceased to be republican in form representation in Congress could be denied to it as a first remedy. When the old "Charter" government of Rhode Island (see p. 21), in 1842, at the time of "Dorr's Rebellion," proclaimed martial law throughout the State, a case arose which finally reached the Supreme Court. Chief Justice Taney then said: "A military government set up as a permanent government of the State would not be a republican government and it would be the duty of Congress to overthrow it." A hereditary governorship would evidently not be republican; but as judges are elected for life, a life tenure in the governorship might not be considered as unrepublican.

147. Federal Protection Without Application from the State.—In case violence breaks out in a State and interferes with the operation of the United States laws, the

President may send troops without a call for aid. In 1894 there was a riot in Chicago, by which the movement of mails and interstate commerce was interfered with. To carry out the Federal laws governing the mails and interstate commerce, President Cleveland sent troops to Chicago, when the Governor of Illinois declined to ask for them.

Questions on Sections 3 and 4.—Have ever any States been "formed by the junction of two or more States"? Have ever parts of States been added to other States? How must all such divisions be made? What is meant by "other property" in Section 3, Clause 2? Which gets the money realized by the sale of public lands in the Territories before and after they become States—the United States or the States? When must the President wait for a call for aid (Sect. 4)?

ARTICLE V.—AMENDMENTS

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

148. **Two Methods of Proposing and Ratifying Amendments.**—While amendments may be proposed in two ways and ratified in two ways, so far all have been proposed and ratified by the first of the two methods described in the article, that is to say: Congress has framed

and proposed the amendments, and the State legislatures have ratified them, because it is the most convenient way. The Constitution itself was framed in a convention and ratified by conventions in three-fourths of the States. The consent of the President is not necessary for the proposal of amendments by Congress.

149. **"Equal Suffrage in the Senate."**—The Constitution may be amended so as to allow but one Senator or three or four or any other number to each State without the consent of every State; but to deprive a particular State—Nevada, for instance—of one or both of its Senators it must give its consent. As Nevada is not likely to agree to such a step it cannot be reduced to a Territory or annexed to an adjoining State, but will continue its separate existence, with its Senators representing but a handful of people (42,000) compared with the population of New York State (7,268,000).

150. **Amendments Proposed and Ratified.**—Some 1,700 amendments have been proposed in Congress, but only a very few have received support enough to be submitted to the States for ratification. Of these, seventeen have been ratified. Among the amendments proposed but not further acted on, the most important ones were those assuring the constitutionality of the Louisiana Purchase, authorizing Congress to make internal improvements, dealing with slavery before the Civil War, establishing woman's suffrage, and amending the Preamble so as to include a recognition of Almighty God. Strictly speaking the Constitution was amended four times before 1913. The first ten amendments went into force in 1791, the eleventh in 1798, the twelfth in

1804, and the thirteenth, fourteenth, and fifteenth in 1865, 1868, and 1870 respectively. The first ten, called "the Bill of Rights," were really not a change of the Constitution, but a "postscript" to it. The three that are known as the "War Amendments" secured and made permanent the results of the Civil War. The sixteenth and seventeenth amendments went into effect in 1913. It is a great compliment to the framers of the Constitution that it has been changed so little.

Questions on the Article.—What kind of vote is required in Congress to propose an amendment? How many States must call for a convention to propose amendments? How many States must ratify either by legislatures or conventions? What parts of the Constitution cannot be amended?

ARTICLE VI.—GENERAL PROVISIONS

Clause 1.—All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

Cl. 2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Cl. 3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

151. Revolutionary Debts.—It is a principle of public law that a nation cannot avoid paying its debts by changing the form of its government. By asserting this

principle in the Constitution, with reference to the debts that the Continental Congress had incurred at home and abroad, much opposition to the adoption of the Constitution was avoided.

152. Supremacy of the Constitution.—The Constitution and the laws and treaties made by virtue of its powers are the supreme law of the land. But it should be remembered that this supremacy extends only to the powers delegated to the United States (see p. 61), and that it is only within the domain of those powers that the United States authority is supreme. States within their powers are just as supreme as the United States is within its powers. For instance, Congress has power to regulate commerce *among* the States, but it has no power over commerce wholly *within* a State.

153. The Oath of Office.—The oath implies conscience on the part of him that takes it, but not religion, either formal or real. So when an officeholder takes the oath to support the Constitution, the obligation to do what he promises to do rests on his conscience. The Mormon Congressman was not debarred from membership in the House of Representatives because of his religion; such disqualification would have been contrary to the Constitution, and members voting against his admission on religious grounds would have violated their oath. He was kept out of Congress because of the evidence that he was a polygamist.

Questions on the Article.—What constitutes the supreme law of the land? What must a judge do with a State law that is contrary to the supreme law of the land? What officials must take the oath? and what do they pledge themselves to do thereby? What sort of test is forbidden? Why?

ARTICLE VII.—RATIFICATION OF THE CONSTITUTION

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

NEW HAMPSHIRE
JOHN LANGDON
NICHOLAS GILMAN

MASSACHUSETTS
NATHANIEL GORHAM
RUFUS KING

CONNECTICUT
WILLIAM SAMUEL JOHNSON
ROGER SHERMAN

NEW YORK
ALEXANDER HAMILTON

NEW JERSEY
WILLIAM LIVINGSTON
DAVID BREARLEY
WILLIAM PATERSON
JONATHAN DAYTON

PENNSYLVANIA
BENJAMIN FRANKLIN
THOMAS MIFFLIN
ROBERT MORRIS
GEORGE CLYMER
THOMAS FITZSIMONS
JARED INGERSOLL
JAMES WILSON
GOUVERNEUR MORRIS

DELAWARE
GEORGE READ
GUNNING BEDFORD, JR.
JOHN DICKINSON
RICHARD BASSETT
JACOB BROOM

MARYLAND
JAMES M'HENRY
DANIEL OF ST. THOMAS JENIFER
DANIEL CARROLL

VIRGINIA
JOHN BLAIR
JAMES MADISON, JR.

NORTH CAROLINA
WILLIAM BLOUNT
RICHARD DOBBS SPAIGHT
HUGH WILLIAMSON

SOUTH CAROLINA
JOHN RUTLEDGE
CHARLES C. PINCKNEY
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PIERCE BUTLER

GEORGIA
WILLIAM FEW
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Attest: WILLIAM JACKSON, *Secretary.*

154. The Establishment of the Constitution.—The Constitution was submitted to the Congress, under the Articles of Confederation, September 20, 1787. That

body, after subjecting the document to a heavy fire of criticism for eight days, sent it to the State legislatures, to be by them submitted to conventions for ratification (see p. 35). When it had been so ratified by the required number of States, June 21, 1788, the Congress passed a resolution that the new government should go into effect on the first Wednesday in March, 1789, which day happened to be the fourth of March. The Congress, under the Constitution, afterwards passed a law designating March 4th as the beginning of a presidential and congressional term.

155. The Signers.—There were sixty-five delegates chosen to the convention. Ten did not attend, sixteen declined or failed to sign, and thirty-nine signed.

Questions on the Article.—Which State had most delegates in the Constitutional Convention of 1787? Why? Why should Delaware have had more than Massachusetts? How many States had to ratify it? When was the Constitution finished?

AMENDMENTS TO THE CONSTITUTION

Articles I–X.—The "Bill of Rights"

156. Its Origin and Nature.—The "Bill of Rights" has much resemblance to the English Bill of Rights, an act of Parliament passed in 1689, and assented to by William and Mary on taking the throne. Some of its principles are found in the Magna Charta and in the Petition of Right presented to Charles I. The English Bill of Rights was a concession made by the king to the people. As in a republic all rights belong to the people, the framers of the Constitution did not think it necessary to insert a bill of rights. But when the Constitution was before

the States for ratification so many people objected to the omission that the leading statesmen of the country promised to have the matter remedied as soon as the new government would be in operation.

The State constitutions, too, as a rule, contain a bill of rights. Virginia's first constitution, made just before the Declaration of Independence, was the pioneer in this matter.

It should be borne in mind that the "Bill of Rights" in the Federal Constitution does not lay restrictions on the States, but on the United States. In the Girard College case the Supreme Court said, in reference to the provision of his will that no minister of the Gospel should ever be admitted to the grounds, that the validity of such a rule depended on "what the State constitutions and laws and decisions necessarily required."

Article I.—Religion, Speech, the Press, and Petitions

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

157. Freedom of Religion.—This cannot be had where there is a state church; for the people that do not belong to it may nevertheless be taxed to support it, while its members are thereby favored. A taxpayer might thus be induced to join the state church against his preference. There is also danger that "an establishment of religion" may interfere with the free exercise of religion in other ways. This amendment does not serve as justification

for a crime, on the ground that it was committed in accordance with a religious belief.

158. Freedom of Speech and the Press.—These cherished liberties do not imply that one cannot be punished for slander and libel. Only so long as what is said or printed does not result in crime or damage is freedom guaranteed. The Alien and Sedition laws were considered by many people to be a violation of the freedom of speech and of the press.

Article II.—The Right to Bear Arms

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

159. The Right Important.—If the people were deprived of the right to keep and bear arms they would be lacking in preparation for war. Furthermore, it used to be a favorite means with arbitrary rulers to enslave their subjects by forbidding the keeping and bearing of arms. But while a person may go about in our country with a gun or other deadly weapon in the hand, he is not allowed to carry concealed deadly weapons. However, this is not forbidden by Congress, but by the States.

Article III.—Quartering Soldiers

No soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Article IV.—The Right to Search

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be

violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

160. **"A Man's House is His Castle."**—A castle is a fortified house; but a man's house nowadays is not fortified. The law is now the wall that surrounds a man's house.

The right to search is most frequently exercised by the Federal Government in the execution of its revenue laws. A "reasonable search" is one made, for instance, for stolen goods, for goods attached for debt, for dutiable articles, and for a person liable to arrest. But no search for goods can be made on a man's premises without a search warrant; nor for a person without a warrant for his arrest.

Articles V and VI.—Rights of Persons Accused of Crime

No person shall be held to answer for a capital, or otherwise infamous, crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

161. The Accused Innocent Until Proven Guilty.—The numerous safeguards thrown around a person accused of crime are all based on the principle that he is supposed to be innocent until proven guilty. The law does not presume him guilty and make him prove his innocence. Therefore he can be tried only after a grand jury examines the evidence against him and decides that it is sufficient to hold him for trial.

162. "Infamous Crime."—A test of an infamous crime other than a capital crime is found in the fact that the punishment is for a term of years at hard labor, but the practice is for the United States grand juries to act on all crimes submitted to them.

163. "Without Due Process of Law."—In the court these words have reference to the rules and principles established by custom and law for the protection and enforcement of private rights. A person sentenced to imprisonment for an infamous crime without having been presented or indicted by a grand jury is deprived of his liberty "without due process of law." The seizure of a man's private books and papers, thus compelling him to be a witness against himself, is also a violation of "due process of law." A tax law that is not uniform, requiring one person to pay more than another proportionately, is taking property without "due process of law." The so-called "lynch law" is a most flagrant violation of the legal process of depriving a man of his life.

Article VII.—Jury Trial in Civil Suits

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any

court of the United States, than according to the rules of the common law.

164. "Suits at Common Law."—Herein are embraced "all suits which are not of equity and admiralty jurisdiction." In Clause 3, Section 2, Article III, it says that "the trial of all crimes, except in cases of impeachment, shall be by jury." For fear that this provision would be construed so as to exclude civil cases from trial by jury the Seventh Amendment was added.

165. "The Rules of the Common Law" in Appeals.—By the common law a higher court can reverse decisions of a lower court only when errors in the law have been committed. The facts, or the evidence, if appearing out of reason with the verdict of the jury, must be reëxamined in the lower court by means of a new trial.

Article VIII.—Excessive Bail, Fines, etc.

Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

166. What is Excessive.—The amount of bail depends on the gravity of the crime, the means of the prisoner, and the minimum fixed by law. Excessive bail defeats the very purpose of bail, which is not to treat the prisoner as guilty before he has been convicted. Excessive fines, especially in lieu of imprisonment, are equally unjust and burdensome.

167. "Cruel and Unusual Punishments."—Cruelty in punishment is difficult to determine. Torturing and maiming are now universally agreed to be cruel; flogging is not. However, flogging is unusual. When a punish-

ment is both cruel and unusual it is unconstitutional. Electrocution is unusual, but is not held to be cruel.

Articles IX and X.—Reserved Rights and Powers

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

168. Not All Rights Possible of Enumeration.—As it was not possible to enumerate all the rights of the people it was thought prudent to state that such as are not enumerated should not therefore be denied or disparaged; for instance, the right to establish schools.

169. "Or to the People."—Whatever powers are not incorporated in the Constitution of the United States or in the constitutions of the States belong to the people. For instance, the power to build and operate railroads has not been given either to the United States or to the States, so it still belongs to the people.

Questions on Amendments I to X.—What does the first amendment prohibit? What kind of state needs a militia? Why? When shall a soldier not be quartered in a house without the owner's consent? How is the matter regulated in time of war? What things are secured against search? On what conditions shall a warrant issue? What must it describe? What is a capital crime? What kind of offenses need not be brought before a grand jury? How many times can a person be put in jeopardy of life or limb? Under what circumstances would a person choose to be tried again after conviction? May a prisoner appear as a witness in his own trial? Of what can a person not be deprived without due process of law? How may private property be taken? For what purpose? What kind of trial is a criminal entitled to? What kind of jury? Of what must he be informed before trial? Can he be confronted with the testi-

mony of a dying person? How does he get unwilling witnesses? Can he be tried without counsel? In what kind of civil cases is a jury trial guaranteed?

Article XI.—The Judicial Power Abridged

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any of the United States by citizens of another State, or by citizens or subjects of any foreign state.

170. Occasion of Its Adoption.—This amendment was brought about by the fact that a citizen of South Carolina, in 1792, sued the State of Georgia in the United States Supreme Court, basing his right to do so on Section 2, Article III, where it says that the judicial power "shall extend to controversies between a State and citizens of another State." When the people learned that it was possible for a State to be brought into the United States court by a citizen of another State without the consent of the former State (see p. 98), they demanded the amendment.

Questions on the Amendment.—Can a State sue another State in the United States courts? If so, in which one? What classes of people cannot sue a State in this way? Can one foreign nation sue another? If not, what's the remedy?

Article XII.*—The Election of President and Vice-President

171. Occasion of Its Adoption.—According to the original clause providing for the election of President and Vice-President, the candidate getting the highest number of electoral votes was to be President; and the one receiv-

* For the text of this amendment, see p. 80.

ing the next highest was to be Vice-President, provided each had a majority of all the votes in the Electoral College. In 1800 both Jefferson and Burr had received a majority, but each had the same number of votes. Thus the election was thrown into the House, where it took thirty-six ballots, extending through a period of seven days, to elect Jefferson and Burr. The country was in such a state of excitement that there was danger of civil war. To prevent the recurrence of such conditions the Twelfth Amendment was adopted, requiring that the electoral votes must be cast separately for President and Vice-President.

Articles XIII–XV.—The War Amendments

172. Their Necessity.—For sixty years after the Twelfth Amendment was made, in 1804, the Constitution stood still. But the Civil War made amendment necessary, in order to establish permanently the freedom of the slave race and give protection to the newly made freeman and citizen.

Article XIII.—Slavery Abolished

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

173. A Final Abolition.—Slavery had already been abolished by Congress in the District of Columbia and the Territories. President Lincoln had freed the slaves January 1, 1863, in all States and parts of States where

the people were then in armed rebellion against the Government of the United States; but his proclamation did not free the slaves in other States and parts of States. Nor did he *abolish* the institution of slavery anywhere; he simply *freed* the people then in slavery in some places. So in order to free the slaves everywhere and prevent the reëstablishment of slavery anywhere the Thirteenth Amendment was passed.

This amendment prohibits every form of involuntary servitude, in which are included Mexican peonage and the Chinese coolie trade.

Questions on the Sections.—What exception is made to involuntary servitude? Does the amendment have force in our "insular possessions"? Why was the second section added to the amendment?

Article XIV.—Citizenship, Personal Rights, etc.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.

SEC. 3. No person shall be a Senator or Representative in Congress or elector of President or Vice President, or hold any office, civil or military under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

174. Definition of Citizenship. — The Fourteenth Amendment contains another one of the few definitions in the Constitution (see p. 103), namely, that of citizenship. By the decision of the Supreme Court in the Dred Scott case no negro, bond or free, could be or become a citizen of the United States. As that decision, unless reversed by the Supreme Court at a later time, would have been the supreme law of the land ever after, a definition of citizenship making the Dred Scott decision null and void was incorporated in the Fourteenth Amendment.

175. What a State Shall Not Abridge.—It should be noticed that in the first ten amendments the United States is prohibited from encroaching upon certain rights of the people. In the last three the States are prohibited from encroaching upon certain rights of the people. The "privileges and immunities" referred to here are those

which a person has as a citizen of the United States, not as a citizen of a State. For instance, no State shall abridge the right to plead in the United States courts, to share in the offices of the United States, to become a citizen of another State, to use the navigable waters of the country, to go abroad and enjoy there the protection guaranteed to American citizens by treaty or otherwise, etc.

176. Parts Inoperative.—The first sentence in Section 2 is an amendment to Clause 3, Section 2, Article I (see p. 41). The second sentence, it is believed, is made inoperative by the Fifteenth Amendment, which altogether forbids the denial of the franchise on certain grounds and evidently permits the denial on other grounds. It would seem inconsistent for the Fourteenth Amendment indirectly to sanction what is forbidden and indirectly to punish what is permitted in the Fifteenth. There are no longer any persons living on whom Section 3 *can* operate, for all Confederates still living have had their disabilities removed as prescribed in the section.

177. Civil War Debts.—The fear that Congress might some day attempt to question any of the debts incurred by the United States during the Civil War, or to assume the debts incurred by the Confederate States, was the reason for adopting Section 4, in the Fourteenth Amendment.

Questions on the Sections.—Define a citizen of the United States. Is a child of a foreign minister and born in this country, a citizen? What must a State secure to a person not a citizen? How are Representatives apportioned? What debts of the United States shall not be questioned? What debts shall not be assumed? What prohibitions are laid on the States in regard to debts and claims arising out of the Civil War?

Article XV.—As to the Right to Vote

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

Article XVI.—Income Tax

The Congress shall have power to lay and collect taxes on incomes from whatsoever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Article XVII.—Election of Senators

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The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

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178. Voting a Political Right.—The right to vote is not a civil right, like those, for instance, designated in the Declaration of Independence as "unalienable." It is classed with the political rights, those which are allowed to individuals in the government, like the right to hold office, to serve as a juror, etc.

179. The States Grant the Right to Vote.—The Fifteenth Amendment does not confer the right to vote on any one; that power belongs to the States. It merely prohibits the States from discriminating against anybody "on account of race, color, or previous condition of servitude."

Questions on the Sections.—Can a State grant the right to a person not a citizen? Can a State deny the right on account of sex? Can a State deny the right to a Chinese as such?

CHAPTER VI

A COMPARISON OF GOVERNMENTS

ENGLAND

1. The Executive.—Nominally the King is the executive; but practically the Cabinet conducts the government and is in reality the executive. The chief executive power was last exercised by the King in the time of the Stuarts. During their reigns Parliament had gained so much supremacy that when it offered the throne, made vacant by James II., to William and Mary, 1689, it did so only on condition that the new sovereigns would recognize it as the supreme power in the government. Since that time, except during the reign of George III., the Sovereign of England has had to content himself (or herself) with being an honored and more or less influential hereditary councillor. The President of the United States has far more power than the Sovereign of Great Britain; but it is derived from the people and limited in time and extent. The English Government, however, pays liberally for its royal rule. The whole royal family receives annually about $4,000,000.

2. Parliament.—Parliament had its origin in the ancient shire-mote (see p. 19). When shires became consolidated into kingdoms the legislative power of the shires was transferred to a wider representative body, called the "Witenagemote," or the Assembly of the Wise.

When William the Conqueror came to the throne the Witenagemote merged into the Great Council. The members of this body were not representatives elected by the people, as in the Witenagemote, but every man who held land under the King had a right to a seat. But as only great land owners, like the barons and bishops, would attend a national council, these at length became the exclusive members. Such was the composition of the Great Council until June 15, 1215, when King John reluctantly signed the Magna Charta at Runnymede. It was then that the principle of representation was revived. Commoners, as well as nobles and churchmen, were given seats in the national assembly. At first all these classes sat as one house; but as there was much difference of rank and station the commoners formed another house—the House of Commons. The nobles ("lords temporal") and the higher clergy ("lords spiritual") thenceforth constituted the House of Lords. These changes were completed in the fourteenth century.

3. **The House of Lords.**—The membership of the House of Lords consists of English hereditary peers (dukes, marquises, earls, viscounts, and barons) and of the two archbishops and a number of bishops; of Scottish peers elected by the whole body of Scotch peers for the term of Parliament; of Irish peers elected by the peers of Ireland to sit for life; and of three judges appointed for life, known as Lords of Appeal in Ordinary. The total number of Lords—temporal and spiritual—is about 600. Peers can be created at will by the Crown. Two-thirds of the present number were created in the nineteenth century.

The House of Lords, like the King, has much more

nominal than real power. It takes part in every act of legislation; but its dissent from a bill may be overruled, if the House of Commons passes the bill again within two years. The House of Lords is also the supreme court of appeal in England; but this function is exercised by the Lord Chancellor, speaker of the House of Lords, assisted by the Lords of Appeal in Ordinary, and other Lords who are especially learned in the law.

4. **The House of Commons.**—The members of the House of Commons are elected by counties, boroughs, and universities, in England, Scotland, and Ireland. The total number since 1885 has been 670, of which England elects about seventy-five per cent. The term is seven years; but no House of Commons has ever lived so long, for it has always been dissolved before the term expired. Any subject over twenty-one years of age is eligible to election, except clergymen, government contractors, sheriffs, English and Scottish peers (certain Irish peers are), bankrupts, and elective officers. The members cannot resign their seats except when appointed to a position of honor and profit under the Crown, or are otherwise disqualified.

5. **The Sessions of Parliament.**—There is at least one session a year, which lasts from the middle of February to the middle of August. The daily sessions begin at 4 P.M. in the House of Commons and at 5 P.M. in the House of Lords, and frequently extend far into the night. They are practically night sessions. The Commons organize by electing one of their members Speaker. The choice must be nominally approved (which is always done) by the Crown. The Speaker does not debate, but

simply presides, and no matter what his party affiliations are, his decisions must be absolutely non-partisan. In case of a tie he must give the casting vote.

The House of Lords is permanently organized. The Lord Chancellor is Speaker by virtue of his office, and is therefore not chosen by the Lords, but by the Sovereign. He is not necessarily a peer, but if he is, he may leave the chair and speak. He has no casting vote; if the Lords are tied the question is lost.

6. The Cabinet, Its Origin.—The Cabinet may be traced back to the Great Council, the successor to the Witenagemote (see p. 129). As that body met but three times a year, and at first was not composed of the same persons from year to year, the King kept about him constantly a select number of that body, an "inner circle," for a permanent council. After Parliament, with its Lords and Commons, had succeeded the Great Council (see p. 129) another "inner circle," called the Privy Council, whose members were bound to the King by an oath of secrecy and fidelity, was organized in the reign of Henry VI. But the expansion of the kingdom, in the course of time, made the Privy Council again too large for dispatch and secrecy. Hence a third "inner circle," the Cabinet, was organized—so called because the King met its members in a small room, a "cabinet." During the reign of the Stuarts the Cabinet began to draw to itself much executive power (see p. 128) and displaced the Privy Council altogether. With the advent of William and Mary it assumed the position in the government which it now occupies.

7. The Cabinet at Present.—The Cabinet always consists of at least eleven ministers: the First Lord of the

Treasury, the Lord Chancellor, the Lord President of the Council, the Lord Privy Seal, the Chancellor of the Exchequer, the five Secretaries of State, and the First Lord of the Admiralty. The Prime Minister is generally the First Lord of the Treasury. To these are added a number of others. Some of the eleven enumerated date from the time of the Great Council (see p. 129).

The Cabinet is of the same political complexion as the majority in the House of Commons. At the same time that its members administer the executive departments they frame and introduce all important bills and push these bills through Parliament, under the lead of the Prime Minister. The "Opposition" party also has its leader and tries to defeat the measures of the Ministry. Should the "Opposition" succeed in defeating an important bill or in passing a vote of censure, the Ministry has a choice between two courses. If it concludes that it has not "fallen" on account of the disapproval of the people at large, it may advise the Sovereign to dissolve Parliament and order the election of a new House of Commons. If the election is favorable to the existing Cabinet it remains in office—if not, the members resign forthwith. If the Cabinet resigns without a dissolution of Parliament a new Cabinet is appointed from the party which has shown itself strongest in the House of Commons.

When the Sovereign has to appoint a new Cabinet he sends for the acknowledged leader of the party which has the majority in the House of Commons, and asks him to form a Ministry. He makes up a list from among the members of both Houses of Parliament, and recommends them to the King for appointment. The Ministers selected from the House of Commons must then resign

their seats and seek a reëlection. This election is a mere formality.

8. The Judiciary.—The English judiciary consists of the House of Lords as a court of last resort; the Court of Appeal; the High Court of Justice, acting in three divisions, the Chancery, the King's Bench, and the Probate, Divorce, and Admiralty Division. County courts, whose jurisdiction extends not over counties but much smaller districts, and other local courts, administer justice in petty cases.

9. The Constitution.—England has no written constitution. Her constitution was not made at one time and drawn up in articles and sections. It consists of long-established precedent, of the acts of Parliament, of great documents like the Magna Charta and the Bill of Rights, and of rules made by the courts of law. Hence Parliament may in theory change the constitution by a mere bill. Whenever a law is repealed the constitution is amended by the repeal. Parliament, not the constitution, as in our Government, is supreme. Parliament could abolish the Crown, the House of Lords, the House of Commons, and even itself. No court in England can declare a law unconstitutional, for every law is a part of the constitution.

10. Local Government of England and Wales.—For purposes of local government, England and Wales are divided into counties, boroughs, urban and rural sanitary districts, poor-law parishes, unions, highway parishes, and school districts. In all of these the people have the advice and coöperation of the central Government, but are not controlled by it as in France (see p. 138).

At the head of the county is the Lord Lieutenant, who

represents the Crown. He nominates the justices of the peace to be appointed by the Lord Chancellor, a member of the Cabinet; otherwise the Lord Lieutenant's duties are nominal. The chief executive officer is the sheriff, who owes his appointment to the Crown. There is also an undersheriff, a coroner, a clerk of the peace, etc. The magistrates administer the criminal law, except in grave offenses, and license liquor sellers. The County Council is elected by the people, and its jurisdiction corresponds in general to that of our county commissioners, boards of supervisors, and boards of education.

Counties are divided into urban and rural districts. An urban district comprises a town or a small area densely populated; a rural district, several country parishes. These districts also have councils elected by the people. The chairman, unless a woman (women may serve in district councils but not in county councils), is a magistrate for the county by virtue of his office.

In every civil parish in a rural district there is a Parish Meeting at which every parochial elector may attend and vote; and in the more populous parishes there is also a Parish Council. These bodies look after the poor, burials, baths and washhouses, lighting and watching, public libraries, etc., and appoint the overseers of the poor.

FRANCE

11. A Republic.—Next to that of England, the mother Government of the United States, the Government of France is of the most interest to Americans, because France is a republic. The present Government is known

as the Third Republic. The first, beginning in 1792, was made an empire under Napoleon I., in 1804; the second, beginning in 1848, was again made an empire under Napoleon III., in 1852. The Third Republic was formed September 4, 1870, after the overthrow of Napoleon III. in the progress of the war with Germany. A national assembly was chosen by universal suffrage early in 1871, to make peace. This done, it continued to direct the affairs of government and framed a constitution which it adopted in 1875, and which went into effect without being submitted to the people.

12. **The Executive.**—The President of France is elected, for a term of seven years, by a joint vote of the National Assembly (see p. 137). He appoints and may remove all civil and military officers of the central Government. He has no veto on legislation, but can demand a reconsideration of any measure passed by the legislative department. The President concludes treaties with foreign powers, but cannot declare war without the previous consent of the legislative department. No member of a family having occupied the throne of France can become President. The salary of the President is 600,000 francs, and he has an allowance of as much more for his expenses.

13. **The Senate.**—The upper house of the legislative department is called the Senate. It consists of 300 members elected, for nine years from citizens at least forty years old. They are elected by electoral bodies (colleges) one in each department (see p. 138). Besides members from the local divisions of a department, an electoral college contains the Deputies (see Deputies, p. 136) of the department. One-third of the membership of the Senate is renewed every three years.

14. The Chamber.—The lower house of the legislative department is called the Chamber of Deputies. It is composed of 584 Deputies, elected for four years by universal suffrage. The Deputies must be citizens at least twenty-five years old. The princes of deposed dynasties are precluded from membership in the Chamber (and in the Senate). Each arrondissement (see p. 138) elects one Deputy, and if its population is in excess of 100,000, it is divided into two or more constituencies. The arrondissement corresponds to our congressional district, with the difference that there may be more than one Deputy from a district. The principal colonies, also, are entitled to representation in the Chamber of Deputies. The members of both chambers receive each 9,000 francs salary a year, and travel free on all railways on payment of a small annual sum of money.

15. The Chambers in Session.—Both chambers assemble every year on the second Tuesday of January and must remain in session at least five months in the year. Any member can present a bill, but financial bills must originate in the Chamber of Deputies.

16. The Cabinet and Council of Ministers.—Though exercising different functions, the Cabinet and Council of Ministers are one and the same body. At present its membership consists of eleven ministers. They are usually, but not necessarily, members of the Senate or the Chamber of Deputies, and are appointed by the President in accordance with the wishes of the majority in the chambers. They have a right to attend all the sessions of the chambers and take part in the debates.

As a Cabinet the ministers exercise legislative functions in the chambers by presenting bills, debating and

answering questions. In this capacity they are responsible to the chambers for their acts. As a Council of Ministers they assist the President in the administration of the Government. Each minister represents some executive department; and every act of the President has to be countersigned by the minister whose department is affected.

In case the Cabinet loses the support of the chambers —especially the Chamber of Deputies—the ministers resign; and the President appoints a new Cabinet and Council of Ministers. But the President has the power to close a regular session of the chambers after it has continued five months, and an extra session any time; and he can, with the consent of the Senate, dissolve the Chamber of Deputies before the expiration of five months in order to elect a new one. In this way he may succeed in continuing the Cabinet that fell by an adverse vote.

17. The National Assembly.—For two purposes the Senate and the Chamber of Deputies meet in joint session: the election of the President and the revision of the Constitution. When sitting for one of these purposes the two houses are known as the National Assembly. Its sessions are not held in Paris, but in Versailles. The Executive as well as the Constitution is the creature, therefore, of the legislative department.

18. The Judiciary.—The Supreme Court is the Cassation Court, sitting in Paris; below this court are some twenty courts of appeal in various parts of the country. These hear cases brought from the courts in the capital towns of the arrondissements (see p. 138). Justices of the peace adjust petty cases in the cantons (see p. 138). In questions affecting the safety of the state the Senate

may be constituted a special court. The Minister of Justice appoints all judges to serve during good behavior. Civil cases are tried without juries.

19. **Local Government.**—For the administration of local affairs France is divided into departments, subdivided into arrondissements, subdivided into cantons, subdivided into communes. The departments are fractions of France; the others are fractional parts of the department. The central Government acts upon the department, whose head, the Prefect, is appointed by the Minister of the Interior; but the Prefect is also responsible to the other ministers in acts affecting their departments. Any minister can veto a Prefect's acts. Local legislative bodies are elected by the people. Most of the local officers are appointed by the Prefect, and may, in common with all others, be removed by him, or by the Minister of the Interior, or even by the President himself. France is a centralized republic, whose executive and judicial officers, general and local, are mostly appointed by the President and the ministry.

GERMANY

20. **An Empire.**—The German Empire, whose constitution bears the date of April 16, 1871, is formed of all the states of Germany as "an eternal union for the protection of the realm and the care of the welfare of the German people." The original, the Holy Roman Empire, which came to an end in 1806, was formed by Charlemagne, when he was crowned Kaiser at Rome, Christmas Day, 800. After Napoleon had overthrown the old empire, a Confederation arose, in which Austria

was the dominant state until 1866. Then the North German Confederation, with Prussia as the leading state, was organized, and Austria betook herself to the work of forming a new union with various nationalities of Southeastern Europe. When, in 1870, war broke out between France and Prussia, all the German states not in the North German Confederation united for protection against Napoleon III., with their northern neighbors and brethren. This was done January 18, 1871, in the Palace of Versailles, whither William I., King of Prussia, had come in the course of the Franco-Prussian war.

The German Empire consists of a confederation (see p. 13) of four kingdoms, six grand duchies, seven principalities, three free towns, and the Reichsland (imperial domain) of Alsace-Lorraine. The leading state is Prussia, whose king is the hereditary president of the confederation—the Emperor of the empire. As King of Prussia the Emperor occupies a hereditary throne; but as Emperor proper he simply occupies a hereditary office. The Government of the empire is of the form of a limited monarchy.

21. The Executive.—The principal executive function is to represent the empire in its international relations. The Emperor (Kaiser) can declare war, if defensive, as well as enter into certain treaties with other nations, and appoint and receive ambassadors. When a war is not defensive the Emperor must have the consent of the upper branch of the legislative department. The states, too, may send ambassadors to, and make treaties with, foreign countries; but the dealings must not affect any of the interests of the empire.

22. The Legislative Department.—The legislative functions are vested in the Bundesrath (Federal Council) and the Reichstag (Diet of the Realm). The Emperor has no veto on the laws passed by these bodies. The legislative department is the sovereign power. It can amend the constitution without submitting the amendments either to the people or to the governments of the states; but it cannot deprive a state of any of its rights guaranteed to it by the Constitution, unless such state gives its consent.

23. The Bundesrath.—The Bundesrath represents the individual states. It consists of fifty-eight members, appointed by the governments of the states for each session. The members are in reality diplomatic agents accredited to the Emperor. The larger states have the most members. Prussia has seventeen, while seventeen of the smaller states have each one member; but each state has only one vote. The Imperial Chancellor (see p. 141), who must be one of Prussia's seventeen members, presides. In case of a tie, his vote is decisive; that is, Prussia wins in case of a tie. The Bundesrath is legislative, executive, and judicial in its functions. Although it may originate bills, it confines itself mostly to approval or disapproval of the measures of the Reichstag. Any member of the Bundesrath may express his views on the floor of the Reichstag. As an executive body the Bundesrath has a general oversight of the administration of the laws of the Empire. It has a voice in the nomination of the most important officers and in the making of certain treaties. Its judicial functions are mostly incidental to its administrative work; but it may also settle disputes of the Empire with a state or disputes between states

and it will hear cases on appeal from an individual in a dispute with a state.

24. The Reichstag.—This body represents the German people. It consists of 397 members (of which number Prussia returns 236), elected by universal suffrage and secret ballot, for a term of five years; but the Reichstag may at any time be dissolved by the Emperor, with the consent of the Bundesrath (provided Prussia concurs in the assent), in which case he must order a new election within sixty days. He may also adjourn the Reichstag once during any session, but not for more than thirty days. Members must be at least twenty-five years old, which is also the voting age. They receive no compensation but may hold some other salaried office under the Empire or one of the states.

25. The Imperial Chancellor.—There is no Cabinet or Ministry of the Empire. There are imperial officials, appointed by the Emperor, but they act independently of each other, under the general supervision of the Imperial Chancellor, also appointed by the Emperor. The Chancellor is the Emperor's proxy, as it were, responsible to him and not to the Reichstag. The Emperor may remove him at pleasure; but need not do so on account of an adverse vote in the Reichstag. However, the Chancellor owes it to the Reichstag to give them an account of the administration of the laws; and they may criticise him by votes or otherwise, which right they exercise freely. As president of the Bundesrath the Imperial Chancellor is simply a Prussian, not an imperial official. He represents there, not the Emperor but the King of Prussia. The imperial officials in charge of separate administrative departments number eleven; they are all

under the direction of the Chancellor. Besides them there are twelve standing committees in the Bundesrath that act under the supervision of the Chancellor.

26. The Judiciary.—The Empire uses the state courts as its judiciary, except that there is at the head of the state system, the Imperial Court, as the supreme court of appeal. The state governments determine the state districts and appoint the judges, but the Empire fixes the qualifications of the judges and the rules of the courts.

27. Local Government.—Owing to the fact that the German Empire is a confederation of states, old and new, with a variety of governments, from that of kingdoms to that of free cities, local government is not at all uniform. It may be said, however, that it is the imperial policy to secure uniformity. Germany is rapidly becoming a homogeneous nation.

RUSSIA

28. The Empire of all the Russias.—The Russian Empire consists of Russia proper, Poland, Finland, Siberia, Caucasus, and Central Asia. The Empire is divided into seventy-nine governments, eighteen provinces, and one section. At the head of each is a governor, the representative of the Czar. Their combined jurisdiction covers more than one-seventh of the land surface of the earth. The Empire does not consist of confederated states, but mostly of conquered states (see p. 13). Though the Government was an absolute monarchy until 1905, all power having been in the Czar, yet his will was more or less limited by the will of the people. Their habits and customs and their settled rights and privileges could not

safely be ignored. His officials, too, had to be reckoned with when he promulgated a law.

29. The Government.—The Government of the Russian Empire is now a limited hereditary monarchy. The legislative power by various ukases (decrees) of the Czar, the first issued August 20, 1905, is to be exercised by a bicameral Parliament. The Council of the Empire (see p. 143) is to be the upper house, but half of its members will hereafter be elected—some by the land-owning nobility, some by the clergy, some by the Academy of Sciences, others by the universities, and still others by the Chambers of Industry and Commerce. The lower house, or national assembly, is called the Duma. Its members, 450 in number, are elected by a popular vote. Its first session began May 10, 1906. The ministers (see p. 144) may be questioned as to their acts and policies in either chamber, as in the German Empire (see p. 141), but they are responsible to the Czar alone and not to the Parliament, as in England and France (see pp. 132 and 137). Any bill passed by the two houses may be vetoed by the Czar. Though the Parliament must meet once a year, the Czar reserves the right to convoke and dissolve the body at any time.

Notwithstanding these ukases of the Czar concerning a limited monarchy, there is much uncertainty as to what the future Government of Russia will be like.

30. The National Boards.—According to the plan of government under the absolute rule of the Czar, the national affairs of the Russian Empire are entrusted to four great boards, possessing separate functions. The first is the Council of the Empire, consisting of about 100 members, exclusive of the ministers, who have a seat

ex officio, and of four princes of the imperial house. Its chief function is to examine the laws proposed by the ministers, to discuss the budget and all the annual expenditures to be made. It does not propose legislation, however, it merely gives advice to the ministry upon its measures of legislation.

The second board is the Ruling Senate. The Senators are persons of high rank or station. Eminent lawyers preside over the departments into which it is divided. These lawyers represent the Emperor, and without their signatures a decision of the Senate is not valid. All laws proposed by the ministry must be promulgated by the Senate. It is also a high court of justice for the empire; and each department is authorized to hear cases in appeal coming under its jurisdiction. The Senate can make remonstrances to the Emperor when it discovers injustice and irregularity in the affairs of the realm.

This third board has supervision of the religious affairs. Its members are high officials of the Greek Church. All decisions are made in the Emperor's name and must be approved by him.

The fourth board is the Committee of Ministers, consisting of thirteen members. They all communicate directly with the Czar. He has also two private cabinets, one of which is occupied with charities and the other with education. Then there are three other special cabinets, one of which is entrusted with the petitions addressed to the Czar.

31. **Local Government.**—A part of the local church and civil government is entrusted to the people. For this purpose the whole country is divided into communes, whose peasants elect from among themselves an elder as

executive and a tax collector as a superintendent of public stores. Communal assemblies which are composed of all the householders in the commune, or village, are held to discuss and decide communal affairs. Communes are united into cantons, whose elder is elected by cantonal assemblies composed of delegates elected by the village assemblies, one delegate to every ten householders. The cantonal assemblies elect from four to twelve judges, who constitute a court for the administration of justice. The canton is the widest form of peasant self-government. Above the canton is the district, which likewise has its assembly. The district is a political division of the province, upon which, as a whole, the Ministry of the Empire acts through the provincial governor. The province, too, has its assembly; but its members are selected from the membership of the district assemblies—one for every six members. What measure of self-government the Russian peasants enjoy is confined to the communal officers and assemblies. The cantonal government has largely fallen into disuse, having been absorbed by the landowners who control the districts of a province.

JAPAN

32. An Empire.—Japan is an empire, which, it is claimed, was founded 660 B.C. and is ruled now by the same dynasty that formed it. The system of government was that of an absolute monarchy until 1889, when a constitution was promulgated by the Emperor.

33. The Executive.—The Emperor is the head of the empire. He has the title of Tenno, in honor of the

founder of the dynasty. To foreigners he is known as the Mikado. In him are vested all the rights of sovereignty. For instance, the constitution did not proceed from the people but from him; and any amendment of it can be made by him only. He exercises all executive powers. He declares war, makes peace, and concludes treaties.

34. **The Cabinet.**—The members of the Cabinet, ten in number, are appointed by the Emperor and are responsible to him, and not, as in most other limited monarchies, to the Parliament. But strong efforts have been made to establish a different relation between the Cabinet and the Parliament. There is also a Privy Council attached to the Emperor, who consider the matters of state submitted to them and give advice. The members of the Cabinet have charge of the various executive departments, of foreign affairs, finance, war, education, etc.

35. **The Imperial Diet.**—This is the Parliament of Japan. It consists of two houses, a House of Peers and a House of Representatives. Either house may initiate questions for legislation, and make suggestions to the Emperor as to laws or any other subject. When a law is submitted to them they deliberate and vote upon it; but when it comes to the budget they can neither reduce nor reject that part of it which provides for the necessary expenses of the Government.

36. **The House of Peers.**—This house has nearly 375 members. All the male members of the imperial family of full age (twenty-five years), a number of princes and marquises, and a small number of persons appointed by the Emperor for meritorious services to the state or to learning, are peers for life. The others are elected for

seven years by the orders of rank and wealth to which they belong and which are filled by appointment from the Emperor.

37. **The House of Representatives.**—This body is composed of 369 members, elected by the male Japanese subjects of not less than twenty-five years of age and who pay a certain amount of taxes. A male who is more than thirty years old may, however, be elected to the House of Representatives without being a tax payer. Its president is appointed by the Emperor from among three members nominated by it.

38. **The Judiciary.**—There are four courts: District, Original, Appellate, and Cassation. The judges are appointed by the Emperor for life and can be dismissed from office only by a sentence passed by the criminal court.

39. **The Local Government.**—For local government the Empire is divided into prefectures, subdivided into cities and counties. The counties are again divided into towns and villages. All these divisions have their assemblies, or legislative bodies, elected by the people. The governor of a prefecture and the sheriff of a county are appointed by the central Government; the other chief executive officers are elected by the assemblies. Mayors must have the approval of the Emperor; and magistrates of towns and villages, that of the governor of the prefecture. To be a voter requires citizenship and residence, an age of twenty-five years and the payment of taxes. There are no class distinctions in civil rights among Japanese subjects and freedom of religion is guaranteed throughout the Empire.

APPENDIX

THE DECLARATION OF INDEPENDENCE

IN CONGRESS, JULY 4, 1776

THE following preamble and specifications, known as the Declaration of Independence, accompanied the resolution of Richard Henry Lee, which was adopted by Congress on the 2d day of July, 1776. This declaration was agreed to on the 4th, and the transaction is thus recorded in the Journal for that day:

"Agreeably to the order of the day, the Congress resolved itself into a committee of the whole, to take into their further consideration the Declaration; and, after some time, the president resumed the chair, and Mr. Harrison reported that the committee have agreed to a Declaration, which they desired him to report. The Declaration being read, was agreed to as follows:"

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destruc-

tive of these ends, it is the right of the people to alter or to abolish it, and to institute new government; laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused to assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the despository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners;

refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices; and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent thither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely parallelled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high

seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, *free and independent states*; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that as *free and independent states*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *independent states* may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

JOHN HANCOCK.

NEW HAMPSHIRE

Josiah Bartlett
William Whipple
Matthew Thornton

MASSACHUSETTS BAY

Samuel Adams
John Adams
Robert Treat Paine
Elbridge Gerry

RHODE ISLAND

Stephen Hopkins
William Ellery

CONNECTICUT

Roger Sherman
Samuel Huntington
William Williams
Oliver Wolcott

NEW YORK

William Floyd
Philip Livingston
Francis Lewis
Lewis Morris

NEW JERSEY

Richard Stockton
John Witherspoon
Francis Hopkinson
John Hart
Abraham Clark

PENNSYLVANIA

Robert Morris
Benjamin Rush
Benjamin Franklin
John Morton
George Clymer
James Smith
George Taylor
James Wilson
George Ross

DELAWARE

Cæsar Rodney
George Read
Thomas M'Kean

MARYLAND

Samuel Chase
William Paca
Thomas Stone
Charles Carroll

VIRGINIA

George Wythe
Richard Henry Lee
Thomas Jefferson
Benjamin Harrison
Thomas Nelson, Jun.
Francis Lightfoot Lee
Carter Braxton

NORTH CAROLINA

William Hooper
Joseph Hewes
John Penn

SOUTH CAROLINA

Edward Rutledge
Thomas Heyward, Jun.
Thomas Lynch, Jun.
Arthur Middleton

GEORGIA

Button Gwinnett
Lyman Hall
George Walton

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES (1776–78)

Article I.—The style of this Confederacy shall be, "The United States of America."

Art. II.—Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

Art. III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

Art. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this

Union, the free inhabitants of each of these States—paupers, vagabonds, and fugitives from justice, excepted—shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restriction shall not extend so far as to prevent the removal of property, imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties, or restriction shall be laid by any State on the property of the United States, or either of them.

If any person be guilty of or charged with treason, felony, or other high misdemeanor, in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense.

Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V.—For the more convenient management of the general interest of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI.—No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled; specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary, by the United States in Congress assembled, for the defense of such State or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established

by the United States in Congress assembled unless such State be infested by pirates; in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ART. VII.—When land forces are raised by any State for the common defense, all officers of or under the rank of colonel shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct; and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all lands within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States within the time agreed upon by the United States in Congress assembled.

ART. IX.—The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors, entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace, appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or

that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority or lawful agent of any State, in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but, if they cannot agree, Congress shall name three persons out of each of the United States; and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall in the presence of Congress be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or, being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive -the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the Supreme or Superior Court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward": provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed

under different grants of two or more States, whose jurisdictions as they may respect such lands, and the States which passed such grants, are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated; establishing and regulating post offices from one State to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money, or emit bills on the credit of the United States, transmitting every half-year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men,

and clothe, arm, and equip them in a soldierlike manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed and within the time agreed on by the United States in Congress assembled: But if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace; nor enter into any treaties or alliances; nor coin money, nor regulate the value thereof; nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them; nor emit bills, nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof, relating to treaties, alliances, or military operations, as in their judgment requires secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ART. X.—The Committee of the States, or any nine of them, shall

be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI.—Canada, acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of, this union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of Congress before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.—Every State shall abide by the determinations of the United States in Congress assembled, on all questions which, by this Confederation, are submitted to them. And the articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

And whereas, It hath pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, KNOW YE, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of Confederation and perpetual Union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled on all questions which by the said Confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at

Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord, 1778, and in the third year of the Independence of America.*

THE STATES OF THE UNION

States	Representatives in Congress	Population 1910	Area Sq. Mi.	Admitted	Origin
1. Delaware	1	202,322	2,050	1789	Original
2. Pennsylvania	36	7,665,111	45,215	1789	"
3. New Jersey	12	2,537,167	7,815	1789	"
4. Georgia	12	2,609,121	59,475	1789	"
5. Connecticut	5	1,114,756	4,990	1789	"
6. Massachusetts	16	3,366,416	8,315	1789	"
7. Maryland	6	1,295,346	12,210	1789	"
8. South Carolina	7	1,515,400	30,570	1789	"
9. New Hampshire	2	430,572	9,305	1789	"
10. Virginia	10	2,061,612	42,450	1789	"
11. New York	43	9,113,279	49,170	1789	"
12. North Carolina	10	2,206,287	52,250	1789	"
13. Rhode Island	3	542,610	1,250	1790	"
14. Vermont	2	355,956	9,565	1791	From Original Territory
15. Kentucky	11	2,289,905	40,400	1792	"
16. Tennessee	10	2,184,789	42,050	1796	"
17. Ohio	22	4,767,121	41,060	1803	"
18. Indiana	13	2,700,876	36,350	1816	"
19. Mississippi	8	1,797,114	46,810	1817	"
20. Illinois	27	5,638,591	56,650	1818	"
21. Alabama	10	2,138,093	52,250	1819	"
22. Maine	4	742,371	33,040	1820	"
23. Michigan	13	2,810,173	58,915	1837	"
24. Wisconsin	11	2,333,860	56,040	1848	"
25. West Virginia	6	1,221,119	24,780	1863	"
26. Louisiana	8	1,656,388	24,780	1812	By Purchase
27. Florida	4	751,139	58,680	1845	"
28. Arkansas	7	1,574,449	53,850	1836	"
29. Missouri	16	3,293,335	69,415	1821	"
30. Iowa	11	2,224,771	56,025	1846	"
31. Kansas	8	1,690,949	82,080	1861	"
32. Nebraska	6	1,192,214	77,510	1867	"
33. North Dakota	3	577,056	70,795	1889	"
34. South Dakota	3	583,888	77,650	1889	"
35. Montana	2	376,053	146,080	1889	"
36. Wyoming	1	145,965	97,890	1890	"
37. California	11	2,377,549	158,360	1850	By Conquest
38. Nevada	1	81,875	110,700	1864	"
39. Utah	2	373,351	84,970	1896	"
40. Oregon	3	672,765	96,030	1859	By Discovery and Cession
41. Washington	5	1,141,990	69,180	1889	"
42. Idaho	2	325,594	84,800	1890	"
43. Minnesota	10	2,075,708	83,365	1858	Mixed
44. Colorado	4	799,024	103,925	1876	"
45. Texas	18	3,896,542	265,780	1845	Adm'd Republic
46. Oklahoma	8	1,657,155	70,430	1907	By Purchase
47. New Mexico	1	327,301	122,580	1911	By Conquest and Purchase
48. Arizona	1	204,354	113,020	1912	"
Total	435				

* The names of the signers are omitted.

Territories	Population 1910	Area Sq. Mi.	Territories	Population 1910	Area Sq. Mi.
District of Columbia	331,069	70	Hawaii	191,909	6,449
			Alaska	64,356	590,884

The population of the United States at the end of each decade was as follows:

1790.....3,929,214	1830.....12,866,020	1870.....38,558,371
1800.....5,308,483	1840.....17,069,453	1880.....50,155,783
1810.....7,239,881	1850.....23,191,876	1890.....62,622,250
1820.....9,638,453	1860.....31,443,321	1900.....76,303,387

1910.....91,107,727

Total Population of the United States:

In the States	91,639,382
In the Territories	587,334
	92,226,716

The above statistics do not include the people of Porto Rico, Guam, Tutuila and the Philippine Islands.

A government for Porto Rico (population 1,118,012) was established in 1900. The Philippines (population, 1903, 7,635,426) are under a provisional civil government—Guam (population, 8,661) and Tutuila (population, 5,800), are under Governors, and the Isthmian Canal Zone under a Commission, all appointed by the President.

INDEX

PAGE

Amendment (of U. S. Constitution), (C)* 110, 110–112, 122–123
Appeals (in U. S. Courts)... 102
Appropriations:
  no money to be paid without.....(C) 74
  to the army..... 70
  basis of..... 59
Aristocracy:
  origin of..... 10
  definition of..... 13
Arms, right to bear..... 117
Army:
  origin of standing..... 10
  of the United States..... 70
  appropriation to, of U. S.. 71
  States not to have, without consent of U. S...(C) 77
Assembly, national of France 137
Attainder, bills of....75, (C) 77
Attorney-General 90

Bail, excessive..... 120
Bankruptcy..... 65
Bills of credit..... 77
Bill of Rights..... 115
Bundesrath, The German.. 140

Cabinet:
  of United States. *See* President.

PAGE

Cabinet:
  of England..... 131
  of France..... 136
  of Russia..... 144
  of Japan..... 146
Ceded places..... 72
Census.....(C) 41
Chancellor, Imperial of Germany..... 141
Checks and balances..... 40
Citizens:
  privileges of.....(C) 105
  discrimination between... 105
  definition of.....(C) 124, 125
Civilization, stages of..... 10
Civil officers..... 96
Civil service..... 92
Coastwise trade..... 76
Coin and coinage. *See* Money.
Colonies:
  definition of..... 21
  government of American. 21
Commerce, regulation of, (C) 61, 76
Commissions..... 95
Committees:
  of ways and means..... 58
  of appropriations..... 59
  other..... 59
  in the Senate..... 50
  in the House..... 46

* Pages indicated by (C) refer to a certain clause of the Constitution found there.

PAGE
Commons, English House of 130
Confederation, The
formation of..... 28
government of.....29, 31
Congress (of U. S.):
adjournment of by President.....(C) 95
contested seats..... 54
disorderly conduct.(C) 54, 55
disqualification of members.....(C) 57
freedom from arrest of members..... 57
houses of..... 40
journals of.....(C) 54
obstruction in..... 56
powers of.....(C) 61, 72
powers forbidden to....(C) 73
quorum in.....(C) 53, 55
returns and qualifications of members..... 54
rules of proceedings..... 55
salaries of members.(C) 56, 57
secrecy in.....(C) 54, 55
sessions of.....53, (C) 95, 95
Congresses:
Colonial..... 24
Continental.....26, 27, 28, 29
Congressional districts..... 45
Congressman-at-large..... 46
Constitution of England.... 133
Constitution (of U. S.):
parts void and dead, (C) 41, 43, (C) 79, 126
ratification of 35, (C), 114–115
signers of.....(C) 114, 115
subject-matter of..... 39
supremacy of...(C) 112, 113
written..... 38
Constitutional Convention.32–35
Contracts, impairing obligation of..... 78
Copyrights..... 69

PAGE
Council:
of Russian Empire..... 143
Federal, of Germany. *See* Bundesrath.
Counterfeiting..... 67
County:
origin of..... 19
in New England..... 19
in the South..... 20
in the Middle States..... 20
Courts (of U. S.):
appointment of judges, (C) 87, 99
classes of.....(C) 96, 97–99
equity..... 102
jurisdiction of....(C) 99–100, 100–102
necessity of.....96–97
power of, abridged..... 122
term of judges.....(C) 96
Courts:
of England..... 133
of France..... 137
of Germany..... 142
of Russia..... 144
of Japan..... 147
Crime:
infamous..... 119
high..... 96

Debts:
Revolutionary..... 112
Civil War.....(C) 125, 126
Democracy, definition of... 14
Deputies, French Chamber of..... 136
Diet:
of the German Realm. *See* Reichstag.
Imperial of Japan. *See* Parliament.
Diplomatic service, 93, 95, (C) 95

PAGE

District of Columbia..... 72
Douma, of Russia..... 143
Duties:
definition and classification of..... 63
uniformity of.....(C) 61
States not to levy..... 78

Electors, Presidential. (C) 79, 82
Emperor:
of Germany..... 139
of Russia..... 142
of Japan..... 145
Empire:
definition of..... 13
of Germany..... 138
of Russia..... 142
of Japan..... 145
Entry, of ships.....(C) 74
Equity..... 102
Excises..... 63
Executive departments..... 89
Exports, duties on forbidden, 63, 75
Ex post facto law....75, (C) 77
Extradition.....(C) 105, 105

Federal ratio..... 43
Felonies..... 69
Freedom:
of religion..... 116
of speech and the press, (C) 116, 117
of speech in Congress...(C) 57

Gerrymandering..... 45
Government:
best form of civil..... 14
definition of civil..... 8
local, of England and Wales..... 133
local, of France..... 138
local, of Germany..... 142

PAGE

Government:
local, of Japan..... 147
local, of Russia..... 144
necessity of civil..... 8
necessity of, in general... 7
of England.....128–134
of France.....134–138
of Germany.....138–142
of Japan.....145–147
of Russia.....142–145
origin of civil..... 9
police function of civil.... 8
patriarchal.....9, 12
special forms of civil..... 11
the three departments of civil..... 39
the three powers of civil..... 39
types of civil..... 11
"Greenbacks"..... 77

Habeas Corpus:
definition of writ of..... 74
suspension of writ of..... 75
Hundred, The:
in America..... 19
in England..... 19
origin of..... 19

Impeachment....47, (C) 48, 50, (C) 87, (C) 96, 96
Imports. *See* Duties.
Independence:
Declaration of..... 27
treaty of..... 29

Judges (U. S.). *See* Courts.
Jury trial.....(C) 100, (C)119

King:
of England..... 128
of Prussia.....139, 141
Kingdoms, origin of..... 9

PAGE
Law:
due process of..... 119
rules of common, in appeals 120
suits at common..... 120
supreme, of the land, (C) 112, 113
Laws:
execution of the.....(C) 95
important commercial... 64
inspection..... 78
making of.....(C) 58
martial..... 71
military..... 71
mode of passing..(C) 58, 59
not to be passed in disguise 60
revenue.....(C) 58
Legal tender. *See* Money.
Lords, English House of.... 129

Manor:
origin of, in England..... 17
in America..... 19
Military powers:
of Congress.....69–72
of the President.70, (C) 87, 88
Militia:
National Guard..... 71
naval..... 72
control of the.....(C) 62
Monarchy, classes of.....12–13
Money:
coinage of.....66, (C) 76
Congress may borrow 64
legal tender ...66, 68, (C) 76
paper.....31–32, 67–68, 77
standard of.....66–67

Naturalization..... 64
Navy.....70, (C) 77

Oath of office:
of President. *See* President.
of other officers..(C) 112, 113

PAGE
Pains and Penalties, bill of.. 75
Parishes:
in America..... 17
in the South..... 18
origin of..... 16
Parliament:
English.....128, 130
Japanese..... 146
Russian..... 143
Patents..... 69
Paternalism..... 8
Peers, Japanese House of... 146
Piracy..... 69
Postmaster-General 90
Post offices and post roads.. 68
Preamble (to U. S. Constitution).....37, 38, 73
President (of U. S.):
appointment of officers by (C) 87, 92
cabinet of..... 88
compensation of...(C) 81, 86
duties of.....(C) 95
election of.....(C) 79, 83–85
inauguration of..... 86
legislative functions of... 95
message of.....(C) 95, 95
minority..... 85
nature of the office of..... 81
nomination of..... 85
oath of.....(C) 81
powers of.....(C) 87
qualifications of...(C) 80, 85
term of.....(C) 79, 82
President of France..... 135
Presidential succession..... 86
Punishments, cruel and unusual..... 120

Records, of one State in another..... 104
Reichstag, the German..... 141

PAGE

Removal from office..94, (*C*) 96
Representatives, House of (U. S.):
apportionment of members of.....(*C*) 41, 44
election of members, (*C*) 52, 52
nature of..... 42
officers of..... 46
qualification of members of.....(*C*) 40
residence of members of.. 43
vacancies in.....(*C*) 41
who may vote for members of..... 42
Representatives, Japanese House of..... 147
Reprieves and pardons..(*C*) 87
Republic:
definition of..... 14
of France..... 134
Revenue:
customs, annual amount of..... 63
internal, annual amount of..... 63
internal, definition of..... 63
uniformity of laws of, (*C*) 74, 76
Rights:
reserved to the States.... 121
voting.....(*C*) 124, 126, 127

Search, right of....(*C*) 117, 118
Secretary:
of State..... 89
of the Treasury.....59, 89
of War..... 89
of the Navy..... 90
of the Interior..... 91
of Agriculture..... 91
of Commerce and Labor.. 91
Senate (U. S.):
a continuous body..... 49

PAGE

Senate (U. S.):
classification of members of.....(*C*) 47, 49
election of members..... 52
nature of..... 48
number of members of..(*C*) 47
officers..... 50
president *pro tempore* of, (*C*) 48, 50
qualifications of members of.....(*C*) 48
vacancies in....(*C*) 48, 49–50
voting in.....(*C*) 47, 48
Senate:
of France..... 135
of Russia..... 144
Slavery abolished..... 123
Slaves..... 106
Slave trade..... 74
Soldiers, quartering ....(*C*) 117
Speaker, of the House..... 46
State:
definition of modern..... 10
earliest without land..... 10
evolution of..... 9
origin of earliest..... 9
States (in U. S.):
abridgment by, of certain rights .....(*C*) 124, 125
admission of new, (*C*) 106, 106, 107
division of..... 107
formation of original..... 23
origin of..... 21
powers, forbidden to, (*C*) 76–77
protection of..(*C*) 109, 109–110
relation of, to United States..... 35
republican form guaranteed..... 109

Tariff. *See* Duties

PAGE

Taxes:
capitation.....44, (C) 74
direct.....44, 62, (C) 74
indirect..... 62
Territories.....108–109
Theocracy..... 12
Title of nobility, (C) 74, (C) 77
Town meeting:
New England..... 18
origin of..... 16
Township:
Middle States..... 18
New England..... 17
origin of..... 16
Southern..... 18
Trade Convention..... 32
Treason .....(C) 103, 103
Treaties:
making of.....(C) 87, 92
States forbidden to make. 77
Trial:
in civil cases.....(C) 119, 120
in criminal cases.(C) 118, 119

Union, origin of the..... 23

Veto, President's....(C) 58, 60
Vice-President:
compared with Speaker of the House..... 50
compensation of..... 86
election of.....(C) 80, 83–85
nomination of..... 85
when voting.....(C) 48

War:
closing of.....69–70
declaration of.....69–70
engagement in by States, (C) 77

IOWA

ITS CONSTITUTION AND LAWS

BY

S. M. WEAVER

CHIEF JUSTICE SUPREME COURT, IOWA

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PREFACE TO REVISED EDITION

Several important amendments have recently been made to the Constitution of the State of Iowa, and new laws have been enacted by the General Assembly, so numerous and of so great importance that all text books on Iowa government have become seriously defective and misleading. A careful revision of "Iowa, its Constitution and Laws" has therefore been made by the author, who has had the benefit of the scholarly assistance of Hon. Charles W. Lyon, Assistant Attorney General of the State of Iowa.

Remembering the generous approval with which earlier editions of this book have been received by Iowa schools and schoolmasters, the publishers confidently expect this new edition to meet all the demands to which changed conditions have given rise.

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CONTENTS

PAGE

INTRODUCTION 7

CHAPTER

I. The Constitution 11
II. Iowa in History 41
III. Development of the Constitution 43
IV. Relation of the State and Nation 45
V. Constitution aided by Statutes 47
VI. Personal Rights 49
VII. Right of Suffrage 61
VIII. Distribution of Powers 67
IX. Legislative Department 67
X. Executive Department 79
XI. Non-elective State Officers 89
XII. State Institutions 93
XIII. Judicial Department 95
XIV. The State Militia 101
XV. State Debts 102
XVI. Corporations 104
XVII. Public Education 108
XVIII. Constitutional Amendments 111
XIX. Miscellaneous Provisions 113
XX. Counties and County Government 117
XXI. Townships and Township Government 123
XXII. Cities and Towns 126
XXIII. School Districts 133
XXIV. Taxation 137

INTRODUCTION

Order of Study—The natural order of inquiry into the government of one of the United States begins with its Constitution. In harmony with this thought we devote the first chapter of the following study of Iowa to the text of its fundamental law. We suggest, however, that at the outset the pupil be not required to do more than carefully read this text, and that the more minute examination of its provisions be taken up in connection with the subsequent chapters in which they are re-stated and explained in detail.

Definitions—It cannot be too strongly urged upon teachers and pupils that they do not leave any topic which is discussed in this little volume until the meaning of the language employed has been thoroughly mastered. While careful effort has been made to state rules and principles in plain and ordinary terms, it has been impossible to avoid always the use of words and phrases peculiar to law books and writings.

The Constitution also contains many terms not at first readily understood by the non-professional reader. In most instances of this kind we have given definitions and explanations which will enable the young person of ordinary intelligence to grasp the idea sought to be con-

veyed. Lack of space has prevented other definitions which could have been given with profit; but the diligent student can be relied upon to consult the dictionary and other available works of reference, whenever he finds himself in doubt upon a question of interpretation.

Equivalent Terms—In the following chapters the words "elector" and "voter" have been used as having the same meaning. Laws enacted by the Legislature of the State or by the Congress of the United States are spoken of as "acts," "statutes," "statutory laws," and "enactments." The words "road," "public road" are treated as of the same signification as "highway." The constitutional name of the Senate and House of Representatives of the State, when taken together as a law-making body, is "The General Assembly of the State of Iowa," but in popular usage it is more frequently and simply mentioned as "the Legislature," a usage which we have sometimes followed. Other similar instances will be noted by the observant reader.

IOWA

ITS STATE AND LOCAL GOVERNMENT

WITH THE

STATE CONSTITUTION

TO TEACHERS

Knowledge of the general nature of our state government and of the laws which command our obedience is indispensable to a high standard of citizenship. Every man and woman is charged with public as well as private responsibilities; and upon the manner in which the young are trained to meet those responsibilities depends the destiny of our country.

To aid in imparting instructions along these lines, the following chapters have been written.

The subject treated is generally, but very erroneously, supposed to be too complex and abstruse for any but trained lawyers to understand. The machinery of our government is remarkable for its simplicity, and its practical operation can readily be made plain and full of interest to every intelligent child.

Practical illustration of the administration of government, in some of its minor features at least, is always at hand for the use of the apt instructor; and such familiar examples as the working of public roads, annual school meetings, annual and special elections, proceedings of school directors, city councils, boards of supervisors, mayors, and justices of the peace, the assessment and collection of taxes, and other similar matters, can be made topics of profitable discussion and inquiry.

Concerning other features not coming within the range of personal observation, pupils should be encouraged to go beyond the outline lesson and investigate for themselves all available sources of information.

Among the authorities in easy reach are the Code, containing a compilation of all the statutes of general importance; the Official

Register, published yearly by the Secretary of State ; the Census Reports ; reports of all the various State Offices; Annals of Iowa ; Academy of Science ; Handbook for Iowa Teachers, published annually for free distribution. Of these, the first can be found in the office of every lawyer and magistrate ; while the other documents named may usually be obtained without expense by applying to the proper officer at the State Capitol.

Many other helps will be discovered by the student who cultivates the habit of independent investigation and independent thought.

No word or phrase, made use of in the text, should be passed until its meaning is fully explained and understood. Studied in this manner and with this spirit, the time employed upon these pages cannot be otherwise than well spent.

CHAPTER I

CONSTITUTION OF IOWA

The heavy face figures in the margin are inserted for convenience of reference.

1 We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of these blessings, do ordain and establish a free and independent government, by the name of The State of Iowa, the boundaries whereof shall be as follows:

2 Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river, thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that State—adopted June 12, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of main channel of the Missouri river; thence up the middle of the main channel of the said

Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the Big Sioux river, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude. thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of said Mississippi river to the place of beginning.

Article I. Bill of Rights

3 SECTION 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

4 SEC. 2. All political power is inherent to the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

5 SEC. 3. The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister, or ministry.

6 SEC. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have

the right to use as a witness, or take the testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

7 SEC. 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

8 SEC. 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

9 SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

10 SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

11 SEC. 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property without due process of law.

12 SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a

right to a speedy and public trial by an impartial jury ; to be informed of the accusation against him; to have a copy of the same when demanded ; to be confronted with the witnesses against him ; to have compulsory process for his witnesses ; and to have the assistance of counsel.

13 Sec. 11. All offenses less than felony and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal ; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

14 Sec. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable, by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great.

15 Sec. 13. The writ of habeas corpus shall not be suspended, or refused when application is made as required by law, unless, in case of rebellion, or invasion, the public safety may require it.

16 Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace ; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

17 Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

18 Sec. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, un

less on the evidence of two witnesses to the same overt act, or confession in open court.

19 SEC. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

20 SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

21 SEC. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

22 SEC. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives and to petition for a redress of grievances.

23 SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

24 SEC. 22. Foreigners who are, or may hereafter become, residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.

25 SEC. 23. There shall be no slavery in this State, nor shall there be involuntary servitude, unless for the punishment of crime.

26 SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

27 SEC. 25. The enumeration of rights shall not be construed to impair or deny others, retained by the people.

28 [SEC. 26. No person shall manufacture for sale, or sell, or

keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine, and beer. The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provision hereof.]

29 [*The foregoing amendment was adopted at a special election held on June 27, 1882. The supreme court, April 21, 1883, in the case of Koehler & Lange vs. Hill, and reported in 60th Iowa, page 543, held that, owing to certain irregularities, the same was not legally submitted to the electors, and did not become a part of the constitution.*]

Article II. Right of Suffrage

30 SECTION 1. Every [*white*] male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State six months next preceding the election, and of the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

[*Amended by striking out the word "white" at the general election in 1868.*]

31 SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such elections, going to and returning therefrom.

32 SEC. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

33 SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

34 SEC. 5. No idiot, or insane person, or person convicted of any infamous crime shall be entitled to the privilege of an elector.

35 SEC. 6. All elections by the people shall be by ballot.

[Amendment.] The general election for State, district, county, and township officers shall be held on the Tuesday next after the first Monday in November.

[The foregoing amendment was adopted at the general election in 1884.]

Article III. Of the Distribution of Powers

36 SECTION 1. The powers of the government of Iowa shall be divided into three separate departments—the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Legislative Department.

37 SECTION 1. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; and the style of every law shall be:

"*Be it enacted by the General Assembly of the State of Iowa.*"

38 SEC. 2. The sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the meantime, convene the General Assembly by proclamation.

39 SEC. 3. The members of the House of Representatives shall be chosen every second year by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

40 SEC. 4. No person shall be a member of the House of Representatives who shall not have attained the age of

twenty-one years, be a [*free white*] male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

[*Amended by striking out the words "free white," at the general election in 1880.*]

41 SEC. 5. Senators shall be chosen for the term of four years at the same time and place as Representatives; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

42 SEC. 6. The number of Senators shall not be less than one-third, nor more than one-half the Representative body; and shall be so classified, by lot, that one class, being as nearly one-half as possible, shall be elected every two years. When the number of Senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

43 SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

44 SEC. 8. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

45 SEC. 9. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

46 SEC. 10. Every member of the General Assembly shall have the liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

47 SEC. 11. Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.

48 SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.

49 SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

50 SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

51 SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill, having passed both houses, shall be signed by the Speaker and President of their respective houses.

52 SEC. 16. Every bill which shall have passed the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have

been presented to him, Sunday excepted, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly, shall be deposited by him in the office of the Secretary of State, within thirty days after the adjournment, with his approval, if approved by him, and with his objections, if he disapproves thereof.

53 SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

54 SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every regular session of the General Assembly.

55 SEC. 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

56 SEC. 20. The Governor, Judges of the Supreme and District Courts, and other State officers shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the General Assembly may provide.

57 SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

58 SEC. 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to hold a seat in the General Assembly ; but offices in the militia to which there is attached no annual salary, or the office of justice of the peace, or postmaster whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

59 SEC. 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

60 SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

61 SEC. 25. Each member of the first General Assembly under this Constitution shall receive three dollars per diem while in session ; and the further sum of three dollars for every twenty miles traveled, in going to and returning from the place where such session is held, by the nearest traveled route ; after which they shall receive such compensation as shall be fixed by law ; but no General Assembly shall have power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

62 SEC. 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the

fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

63 SEC. 27. No divorce shall be granted by the General Assembly.

64 SEC. 28. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

65 SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

66 SEC. 30. The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating, roads, town plats, streets, alleys, or public squares;

For locating or changing county seats.

67 In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

68 SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim the subject-matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the General Assembly.

69 SEC. 32. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator [or Representative, as the case may be] according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

70 SEC. 33. The General Assembly shall, in the years One thousand eight hundred and fifty-nine, One thousand eight hundred and sixty-three, One thousand eight hundred and sixty-five, One thousand eight hundred and sixty-seven, One thousand eight hundred and sixty-nine, and One thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the [*white*] inhabitants of the State.

[*Amended by striking out the word "white" at the general election in 1868.*]

71 SEC. 34. The Senate shall be composed of fifty members to be elected from the several sensatorial districts, established by law and at the next session of the General Assembly held following the taking of the State and national census, they shall be apportioned among the several counties

or districts of the State, according to population as shown by the last preceding census.

72 SEC. 35. The House of Representatives shall consist of not more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the State as shown by the last preceding State or national census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

73 SEC. 36. The General Assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as hereinbefore required.

[*Amended at general election in 1904.*]

74 SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

75 SEC. 38. In all elections by the General Assembly, the members thereof shall vote viva voce, and the votes shall be entered on the journal.

Article IV. Executive Department

76 SECTION 1. The Supreme Executive power of the State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa.

77 SEC. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation and until his successor is elected and qualified.

78 SEC. 3. There shall be a Lieutenant Governor, who shall hold his office two years, and be elected at the same time as the Governor. In voting for Governor and Lieutenant Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government of the State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

79 SEC. 4. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of said persons Governor, or Lieutenant Governor, as the case may be.

80 SEC. 5. Contested elections for Governor or Lieutenant Governor shall be determined by the General Assembly in such manner as may be prescribed by law.

81 SEC. 6. No person shall be eligible to the office of Governor or Lieutenant Governor who shall not have been a citizen of the United States, and a resident of the State, two

years next preceding the election, and attained the age of thirty years at the time of said election.

82 SEC. 7. The Governor shall be commander in chief of the militia, the army, and navy of this State.

83 SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

84 SEC. 9. He shall take care that the laws are faithfully executed.

85 SEC. 10. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.

86 SEC. 11. He may, on extraordinary occasions, convene the General Assembly, by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

87 SEC. 12. He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

88 SEC. 13. In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly.

89 SEC. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of Governor, or Lieutenant Governor, except as herein after expressly provided.

90 SEC. 15. The official term of the Governor and Lieutenant Governor shall commence on the second Monday of January after their election, and continue for two years and until their next successors are elected and qualified. The Lieutenant Governor, while acting as Governor, shall receive the same pay as provided for Governor; and while presiding in the Senate, shall receive as compensation therefor the same mileage and double the per diem pay provided for a Senator, and none other.

91 SEC. 16. The Governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reason therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

92 SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disabilities of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve on the Lieutenant Governor.

93 SEC. 18. The Lieutenant Governor shall be President of the Senate, but shall only vote when the Senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President pro tempore.

94 SEC. 19. If the Lieutenant Governor, while acting as Governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the President pro tempore of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

95 SEC. 20. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

96 SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

97 SEC. 22. A Secretary of State, Auditor of State, and Treasurer of State shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

Article V. Judicial Department

98 SECTION 1. The Judicial power shall be vested in a Supreme Court, District Court, and such other courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

99 SEC. 2. The Supreme Court shall consist of three judges, two of whom shall constitute a quorum to hold court.

[*The court now consists of six judges.*]

100 SEC. 3. The judges of the Supreme Court shall be elected by the qualified electors of the State, and shall hold their court at such time and place as the General Assembly may prescribe. The judges of the Supreme Court so elected shall be classified so that one judge shall go out of office every two

years; and the judge holding the shortest term of office under such classification shall be Chief Justice of the court, during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The judges of the Supreme Court shall be ineligible to any other office in the State during the term for which they shall have been elected.

101 SEC. 4. The Supreme Court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the General Assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior Judicial tribunals throughout the State.

102 SEC. 5. The District Court shall consist of a single judge, who shall be elected by the qualified electors or the district in which he resides. The judge of the District Court shall hold his office for the term of four years and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of judge of the Supreme Court, during the term for which he was elected.

103 SEC. 6. The District Court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

104 SEC. 7. The judges of the Supreme and District Courts shall be conservators of the peace throughout the State.

105 SEC. 8. The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

106 SEC. 9. The salary of each judge of the Supreme Court shall

be two thousand dollars per annum; and that of each district judge, one thousand six hundred dollars per annum, until the year eighteen hundred and sixty; after which time they shall severally receive such compensation as the General Assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

107 SEC. 10. The State shall be divided into eleven Judicial Districts; and after the year eighteen hundred and sixty, the General Assembly may reorganize the judicial districts and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the Supreme Court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the number of judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

108 [Amendment.] At any regular session of the General Assembly, the State may be divided into the necessary judicial districts for District Court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

[The foregoing amendment was adopted at the general election in 1884.]

109 SEC. 11. The judges of the Supreme and District Courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next, after his election.

110 SEC. 12. The General Assembly shall provide, by law, for the election of an Attorney General by the people, whose term of office shall be two years and until his successor shall have been elected and qualified.

111 [*Sec. 13. The qualified electors of each Judicial District shall, at the time of the election of District Judge, elect a District Attorney, who shall be a resident of the district for which he is elected, and who shall hold his office for the term of four years and until his successor shall have been elected and qualified.*]

[*The foregoing section was stricken out and the following substituted therefor at the general election in 1884.*]

112 [SEC. 13.] The qualified electors of each county shall, at the general election in the year 1886, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years and until his successor shall have been elected and qualified.

[The foregoing section was adopted as a substitute for the original section at the general election in 1884.]

113 SEC. 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this State.

114 [Amendment.] The grand jury may consist of any number of members, not less than five nor more than fifteen, as the General Assembly may by law provide, or the General Assembly may provide for holding persons to answer for any criminal offense without the interference of a grand jury.

[The foregoing amendment was adopted at the general elec tion in 1884.]

Article VI. Militia

115 SECTION 1. The militia of this State shall be composed of all able-bodied [*white*] male citizens between the ages of eighteen

and forty-five years, except such as are, or may hereafter be, exempt by the laws of the United States or of this State, and shall be armed, equipped, and trained as the General Assembly may provide by law.

[*Amended by striking out the word "white" at the general election in 1868.*]

116 SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace; provided, that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

117 SEC. 3. All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

Article VII. State Debts

118 SECTION 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.

119 SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

120 SEC. 3. All losses to the permanent, School, or University fund of this State which shall have been occasioned by the

defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

121 SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

122 SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

123 SEC. 6. The Legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time,

forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability, which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

124 SEC. 7. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Article VIII. Corporations

125 SECTION 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

126 SEC. 2. The property of all corporations for pecuniary profit shall be subject to taxation, the same as that of individuals.

127 SEC. 3. The State shall not become a stockholder in any corporation; nor shall it assume or pay the debt or liability of any corporation unless incurred in time of war for the benefit of the State.

128 SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

129 SEC. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

130 SEC. 6. Subject to the provisions of the foregoing section,

the General Assembly may also provide for the establishment of a State Bank with branches.

131 SEC. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended for circulation as money.

132 SEC. 8. If a general Banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks owning such stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

133 SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all of its liabilities accruing while he or she remains such stockholder.

134 SEC. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

135 SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

136 SEC. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special

or exclusive privileges or immunities, by a vote of two thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

Article IX. Education and School Lands

1st. Education

[*Sections 1 to 15 of this Article created a Board of Education having power to legislate and make rules in relation to the schools of the State, but gave the General Assembly power to abolish such Board after the year 1863. Under this power the Board of Education was abolished by legislative enactment in the year 1864, and the sections referred to are here omitted as no longer of practical importance.*

2d. School Funds and School Lands

SECTION 1. The educational and school funds and lands shall be under the control and management of the General Assembly of this State.

SEC. 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

SEC. 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been or shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved in the

year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all rents of the unsold lands and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

142 SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide.

143 SEC. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of the University and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly as soon as may be to provide effectual means for the improvement and permanent security of the funds of said University.

144 SEC. 6. The financial agents of the school funds shall be the same that, by law, receive and control the State and

county revenue for other civil purposes, under such regulations as may be provided by law.

145 SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

Article X. Amendments to the Constitution

146 SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

147 SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

148 SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year

thereafter, and also at such times as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention.

Article XI. Miscellaneous

149 SECTION 1. The jurisdiction of Justices of the Peace shall extend to all civil cases (except cases in chancery and cases where the question of title to real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

150 SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area; except the County of Worth, and the counties west of it, along the Northern boundary of this State, may be organized without additional territory.

151 SEC. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner or for any purpose to an amount, in the aggregate, exceeding five per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.

152 SEC. 4. The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.

153 SEC. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affir-

mation to support the Constitution of the United States, and of this State, and also an oath of office.

154 SEC. 6. In all cases of elections to fill vacancies in office, occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election and until their successors are elected and qualified.

155 SEC. 7. The General Assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres.

156 SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the County of Polk; and the State University at Iowa City, in the County of Johnson.

Article XII. Schedule

157 SECTION 1. This Constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

158 SEC. 2. All laws now in force and not inconsistent with this Constitution shall remain in force until they shall expire or be repealed.

159 [*The remaining sections prescribing when and how the Constitution shall go into effect, the time of holding the first election thereunder, and other similar provisions, having served their temporary purpose, are here omitted.*]

CHAPTER II

IOWA IN HISTORY

1. **Discovery.** (1673)—Prior to the year 1673, that portion of the United States embracing the present State of Iowa was wholly unknown to the civilized world. At that date the hardy French explorers, Joliet and Marquette, with five followers, made their way in birch canoes from Green Bay up the Fox River, and thence down the Wisconsin River to its junction with the Mississippi. Turning their frail craft southward, these brave men followed the course of the great unknown stream as far as the mouth of the Arkansas, and thus revealed to man the beauty and promise of the northwest.

2. **Claimed by France**—By virtue of these discoveries, all the western half of the great Mississippi Valley was claimed by France as a part of her domain; but, so far as history discloses, Iowa thereafter remained unvisited by white men for more than a century.

3. **Ceded to Spain.** (1763)—In the year 1763, France, being engaged in war with England, and finding it difficult to defend her foreign provinces, ceded all her possessions in the Mississippi Valley to Spain.

4. **Retransferred to France.** (1800) — This arrangement proved to be temporary only, and in the year 1800 Spain restored the province to its original owner, France.

5. **Ceded to the United States.** (1803)—France, being involved in the desperate struggles which accompanied the rise of Napoleon, found it expedient to part with the possession of the territory thus regained, and in 1803 sold it to the United States for a comparatively insignificant sum of money.

6. **Attached to Indiana.** (1804)—In the following year the so-called Louisiana Purchase was divided in two parts, the northern portion (including what is now Iowa) being called the district of Louisiana, and, for the temporary purposes of government, placed under the jurisdiction of the Territory of Indiana.

7. **Made Part of Missouri Territory.** (1805)—One year later the District of Louisiana was given a territorial government of its own, and in the year 1812 its name was changed to Territory of Missouri.

8. **Attached to Michigan.** (1834)—In the year 1834, all that part of the United States north of the State of Missouri and west of the Mississippi was attached to the territory of Michigan, under which jurisdiction it remained but two years.

9. **Made Part of Wisconsin.** (1836) — In 1836, after the admission of Michigan into the Union as a State, all that region now included in the States of Wisconsin, Iowa, Minnesota, and part

of the Dakotas, was organized into a new Territory under the name of Wisconsin.

10. **Made an Independent Territory.** (1838)—Two years later, July 3, 1838, all that part of the then Territory of Wisconsin lying west of the Mississippi River was erected into an independent Territory under the name of Iowa.

11. **Admitted to the Union.** (1846) — Having rapidly increased in population, the Territory applied for admission to the Union; and, after considerable controversy as to the boundaries of the proposed State, its admission was perfected December 28, 1846. The boundaries of the State, as finally settled, will be found described in the preamble of the Constitution (2).

CHAPTER III

DEVELOPMENT OF THE CONSTITUTION

1. **State Constitutions not Uniform**—While all States conform to the general requirements of a republican form of government, they differ widely in the management and administration of public affairs. For example, every State has its governor and other executive officers, but in no two States do these officers exercise exactly the same powers or perform exactly the same duties; all States have legislatures, but each State, by its constitution, has placed its own peculiar limitations and restrictions upon the legislative power; and, while all have judicial systems, in no two

States are the courts arranged upon the same plan or given precisely the same jurisdiction.

2. **Varieties of Local Government** — So, also, there is great lack of uniformity in the method by which the various States provide for local, or neighborhood government. In the New England States, local government is exercised almost exclusively by the voters of the several towns or townships assembled in annual mass- or town-meetings; while in the Southern States township government is unknown. Again, in some States county government is vested in a board of supervisors having many members, organized and acting with much of the formality of higher legislative bodies, while in others it is entrusted to a board of three commissioners, and in still others to a single county judge. These are but a few of the many features of variance between the state governments, but they are sufficient to illustrate the point made in the following paragraphs.

3. **Early Settlement**—No permanent white settlement having been effected in Iowa until about the year 1833, the nations and the territorial governments exercising nominal sway over it prior to that time have left none of their peculiarities impressed upon its constitution or laws. After 1833, settlement was rapidly augmented by immigration from nearly every State in the Union; but among these pioneers, the natives of New England, the Middle States, and Kentucky largely predominated.

4. **Their Influence**—These founders and build-

ers of the commonwealth, coming, as we have seen, from widely separated States differing in constitutions, laws, and customs, were naturally inclined to model the new State and its institutions upon those under which they had been reared, with the result that the Iowa system is in many respects a conglomerate of features and principles borrowed from many sources, with such modifications and additions as the peculiarities of the situation seemed to render expedient.

5. **Value of the Work Accomplished**—This fact does not detract anything from the credit due to those who performed this important work. A constitution, law, or system made by judicious selection from others which have been put to the test of actual experiment may easily be an improvement upon all its models; and now, after fifty years of statehood, Iowa stands second to none in the efficiency and success of her government, or in the contentment and prosperity of her people.

CHAPTER IV

RELATION OF THE STATE AND NATION

1. **The General Government**—It is assumed that the student entering upon the study of these chapters has already made himself familiar with the principles of the government of the United States. If so, he has learned that the Federal Constitution is a written charter setting forth the authority conferred upon the general government by

the people. The nation has no rightful power and can exercise no rightful authority of any kind, for which there is not express or implied warrant in the national Constitution.

2. **The State Government**—The office of a State constitution is different. It does not undertake so much to provide what the State government may do, as to enumerate the things which it may not do, and the rights of the people which it may not limit or destroy.

3. **Difference in Legislative Power**—In legislative, or law-making power the difference between State and nation may be stated thus: The Congress of the United States can enact only such laws as are expressly or impliedly authorized by the national Constitution, while the State legislature can enact any law which is not expressly or impliedly forbidden by the national or State constitution. In other words, the nation can exercise only such powers as have been granted to it by the people, while the State may exercise all powers not withheld or forbidden by the people. A little reflection will make plain this very wide distinction between national and State jurisdiction.

4. **National Supremacy** — In considering the great power exercised by the several States, the student should avoid the mistake of undervaluing the authority of the general government. Within the limit of its constitutional powers, it is supreme over all the States. It is the embodiment of national authority as distinguished from

the local self-government of the several States. Through it alone we deal with foreign powers; by it we are known to the world as one great nation, and, in so far as the national integrity, safety, and credit are concerned, its claim to the allegiance and obedience of every citizen cannot be rightfully questioned.

5. **State Supremacy**—The national government does not, however, undertake to protect the lives, persons, or property of the citizens of the several States, except against foreign invasion and domestic insurrection. This duty and all others of a local character, the regulation of all commerce within the State, the preservation of public peace and order, and numberless other subjects of legislation which most nearly touch the people in their every-day lives, are left to the States exclusively.

CHAPTER V

CONSTITUTION AIDED BY STATUTES

1. **Constitution an Outline**—It will be noticed by the careful reader that in most respects the Constitution is a mere outline or statement of general rules and principles, and makes little if any attempt to describe the details of government, or give minute directions as to the administration of public affairs. These things have been wisely left to the legislature to regulate by appropriate laws, as changing circumstances may, from time to time, render expedient.

2. **Statutes Enacted**—The legislature has, therefore, enacted many laws to make effectual the various provisions of the Constitution. In the succeeding chapters of this volume will be set forth in brief form, under appropriate heads, not only the constitutional outline above mentioned, but legislative enactments as well, so far as the same may be necessary to an intelligent understanding of our State and local government.

3. **Explanatory**—The name applied by the Constitution to the legislative or law-making branch of the State government is "The General Assembly of Iowa," but in this volume we shall use the words "general assembly" and "legislature" interchangeably, as expressing the same idea. By the word "statute" is meant a law enacted by the legislature, and liable to amendment or repeal by the same power. It is understood, of course, that a constitutional provision cannot be amended or modified by act of the legislature.

CHAPTER VI

PERSONAL RIGHTS

1. **Article I of the Constitution**—The first article of the Constitution, commonly known as the Bill of Rights, is a declaration of certain important rights and immunities pertaining to the people individually and collectively. These rights are thus specially mentioned in the fundamental law of the State, to secure them against unfriendly and oppressive legislation, and to protect the people against usurpation and tyranny by any branch of the government.

2. **Natural Rights**—Section 1 of this article (3) re-affirms the rights so forcibly asserted in the Declaration of Independence,—the natural freedom and equality of all men; the enjoyment and defense of liberty; the acquirement, possession, and protection of property; and the unrestricted pursuit of safety and happiness.

3. **Summary of all Civil Rights**—It may well be said that this section of the Constitution summarizes all the most sacred rights of the citizen, and that the declarations contained in the remainder of Article I are simply more specific or particular statements of the principles therein embodied. The right to life, liberty, property, and the pursuit of happiness is so plain to the just mind that no argument can make it clearer; yet history shows us that in all ages of the world

men have been compelled to struggle for its recognition, and to endure untold hardships in its defense.

4. **Nature of Government**—The next section (4) defines the true nature and source of all government, declaring that all political power is inherent in the people, that government is instituted for their protection, security, and benefit, and that they have the right to alter or reform it whenever, in their judgment, the public good requires such action.

5. **Political Power**—The term "political power," as used in the preceding paragraph, means all governmental power,—legislative, executive, and judicial. This power cannot be rightfully taken from the people, nor can they, by a voluntary surrender of it, deprive themselves of the right to alter or reform the government whenever they believe just cause exists for such change. They may by voluntary consent delegate the administration of these powers to a government; but whenever the delegated power is abused, or the general good requires a change in such government, the people may resume it, or may inaugurate and enforce any change which they think for their own best interests.

6. **Monarchy and Republic Contrasted**—The recognition of this principle constitutes the essential distinction between a popular and a monarchical form of government. In the latter, the king is the source of all power; he is the sovereign; every

officer, civil, military, and naval, from the highest to the lowest, looks to that sovereign as the ultimate and final authority which commands his allegiance and obedience. In a republic, every branch of the government, and every officer, is a servant of the people. In nation and State alike, we test all laws and all governmental powers by the constitution; but the constitution is itself the creature of the people's will.

7. **Rule of the Majority**—When we say that the powers of the government depend upon the consent of the governed, it must be remembered that the consent of the people, as a State or nation, is meant. That consent must be determined by the voice of the majority. Absolute unanimity can never be expected.

8. **Religious Liberty**—Religious liberty is guaranteed to every citizen of the State (5 and 6). The legislature cannot rightfully enact any law for the establishment of religion. No taxes can be levied or collected for church or religious purposes. Neither can a person's religious views be made a test of his right to hold office, or his right to exercise or enjoy any of the rights of citizenship.

9. **Propriety of these Guarantees**—It may seem strange to the young student of the present day that it should be thought necessary to incorporate these guarantees in the Constitution; but it is not long since that in England and in some parts of our own country a man holding certain religious views was prohibited from holding office, was

not permitted to testify as a witness in court, and in many other respects was treated as an outlaw.

10. **Penalty for Dueling**—In the earlier years of the present century the practice of dueling was quite general. Some of the most prominent men in American history, including Alexander Hamilton, Aaron Burr, Andrew Jackson, Henry Clay, and Thomas H. Benton, yielded to the custom of their times, and participated in these murderous combats. With the advance of Christian civilization, public sentiment has come to discountenance the barbarous practice, and it is now rarely resorted to. To prevent such crimes in this State, the Bill of Rights (7) provides that any citizen engaging in a duel, either as principal or accessory, forfeits his right to hold office.

11. **Penalty not Exclusive**—Disqualification for office is not the only penalty to which the duelist subjects himself. The killing of a person in such contest is murder in the first degree, and punishable accordingly.

12. **Laws to be Uniform. (8)**—All laws of a general nature must have uniform operation, and the legislature must not grant to any citizen or class of citizens privileges or immunities which are not open to the enjoyment of all other citizens on the same terms. This is intended to prevent unfair discrimination by the State between individuals or classes, to prevent the establishment of monopolies, and to preserve, as far as possible, equality of right and equality of opportunity to all the people.

13. **Freedom of Speech and Press**—Within proper limits, every person may freely speak, write, and publish his views on any subject (9). This does not give any one license to publish immoral or obscene literature, nor to falsely accuse another of crime, or hold him up to public hatred and contempt. These things are an abuse of the freedom which the Constitution seeks to preserve.

14. **Greater Restriction in Other Countries**—Under other forms of government, freedom of speech, and more especially freedom of the press, is restricted within narrow limits. In many countries all books and newspapers are subject to inspection by a public censor, without whose permission no publication can be lawfully made.

15. **Security of Person and Home**—No right is more highly valued by the freeman than the right to occupy his own home, secure from unnecessary, impertinent, or oppressive interference by others. It is an old English saying that "a man's house is his castle," and the principle that not even the king or the State or its officers may arbitrarily disturb his domestic privacy is firmly established in every English-speaking country in the world. It is, therefore, provided (10) that before the house of a citizen can be searched, or his person, papers, or property seized, a warrant must be issued for that purpose, upon sworn complaint, showing probable cause for such action.

16. **Rights of Persons Charged with Crime**—The power to suppress and punish crime is a necessary attribute of all government. It is equally neces-

sary that the exercise of this power be guarded against abuse, and that no person be subjected to the ignominy of criminal punishment, except upon fair and impartial trial.

17. **Jury Trial**—Every person charged with crime is entitled to trial by a jury (11 and 12). However imperfect the jury system may be, the experience of centuries has firmly established it in the affections and confidence of the people, and it is extremely doubtful if any other plan could be devised which would work more satisfactorily or to better public advantage.

18. **Word Defined**—The word "jury," when not otherwise qualified, means a body of twelve men duly selected for the trial of a question of fact, in a court of competent jurisdiction. A jury of six persons is authorized for the trial of petty misdemeanors before justices of the peace; but every person so convicted may appeal to the district court, and thus obtain a new trial before a full jury of twelve.

19. **Right cannot be Waived**—The right to trial by jury is so imperative that even where an accused person has voluntarily waived it, and consented to be tried before the court, without a jury, he is not bound by it, and if so convicted he may have the judgment set aside, and be granted a new trial in the usual form.

20. **Trial to be Speedy and Public.** (12)—One who is placed under arrest on charge of crime must not be detained an unreasonable time without a hearing, but must be given a speedy and

public trial. He must also be informed of the precise nature of the charge made against him, must be allowed to see and hear the witnesses who testify against him, must be given means to compel the attendance of witnesses in his own behalf, and be permitted to have the assistance of counsel.

21. **Petty Misdemeanors.** (13)—Offenses against the law for which the highest punishment does not exceed a fine of one hundred dollars, or thirty days' imprisonment in the county jail, are commonly called "petty misdemeanors," and are tried before justices of the peace.

22. **How Tried**—Such proceedings are begun by presenting to the justice of the peace a sworn complaint called an "information," stating the facts constituting the alleged offense. Upon this information a warrant is issued for the arrest of the accused, who is thus brought before the magistrate, and the truth of the charge is tried in the usual way. Cases of this class are never tried in the district court except on appeal.

23. **Indictable Offenses**—No person can be brought to trial for any offense of a higher degree than those above named, except upon indictment by a grand jury. A grand jury is a body of men duly summoned to attend the district court in each county to inquire into indictable offenses against the laws of the State, and to determine whether any person charged with such offense shall be put on trial. An indictment is simply a formal written accusation made to the court by a grand jury,

charging some particular person or persons with the commission of a crime, and stating the facts constituting it. The district court alone has jurisdiction to try this class of cases.

24. **Cannot be Twice Tried.** (14)—If a person charged with crime is once tried and acquitted, he cannot be again put on trial for the same offense. This rule sometimes works an apparent injustice to the State, for it may easily happen that, after the accused has been acquitted, new evidence is discovered which would conclusively establish his guilt. It is thought better, however, that a guilty person occasionally thus escape just punishment than that the innocent be exposed to oppression and persecution by being again and again forced to stand trial upon the same charge.

25. **Right to Bail.** (14)—Except when charged with a capital offense, where the proof is evident or the presumption is great, all persons have the right to bail until they have been duly tried and convicted. A capital offense is one which is punishable by death. The right to bail is the right to go at large on giving proper security for appearance before the court whenever called upon for trial.

26. **Habeas Corpus** is sometimes called "the great writ of personal liberty." It is the grandest safeguard against despotism which jurisprudence affords. The words are Latin and mean "You may have the body." If a prisoner thinks his arrest is unlawful, he, or any one in his interest, may apply to a judge of a higher court for a writ of

habeas corpus. The judge examines the case; if he decides the prisoner is lawfully held, he remands him to prison; if not, he orders his release. This writ is not to be suspended or denied except when, by reason of rebellion or invasion, the public safety may require it.

27. **Military Subordinate to Civil Power.** (16, 17)—Sections 14 and 15 of the Bill insure the people of the State against military oppression. Military authority is of necessity arbitrary, and military officers, being accustomed to command and having the power to enforce obedience to their requisitions, are sometimes betrayed into disregard of private right and into contempt of the civil law. It is, therefore, the policy of all republican governments to provide strong safeguards against abuses of this nature.

28. **Treason**—Treason is the highest crime known to the law (18). It consists only in levying war against the State, adhering to its enemies, or giving them aid and comfort.

Under monarchical governments, almost every act or word which could be construed as disrespectful to the sovereign or as a denial of his right to rule has been held to be treasonable and punished with death. Such severity is inconsistent with our free institutions.

29. **How Established.** (18)—No person can be convicted of treason except on the evidence of at least two witnesses to the same overt act, or confession in open court.

By "overt act" is meant some actual effort to

wage war against the State or to assist its enemies in time of war—as distinguished from disloyal words or sentiments.

30. **Excessive Bail, etc.**—The Constitution also provides against oppression by the courts under forms of law, and to that end forbids (19) the requirement of excessive bail, the imposing of excessive fines, and the infliction of cruel and unusual punishments.

31. **Taking Private Property for Public Use.** (20)—Private property is not to be taken for public use without compensation. It often becomes necessary to obtain or appropriate the property of the private citizen for the public benefit. For instance, ground may be needed for the site of a schoolhouse, or for a public highway, or other similar public purpose; and in such cases the rights of the individual owner must yield to the general good,—but not until proper compensation has been made.

32. **No imprisonment for Debt.** (21)—There can be no imprisonment for debt in any civil action, on mesne or final process, unless in case of fraud; nor can any person be imprisoned for nonpayment of a militia fine.

33. **Words Defined**—The word "action," as used in this section of the Constitution, means a proceeding or suit at law for the collection of a debt. "Mesne process," as here used, is a writ or warrant issued in such proceeding or suit for the arrest and detention of the debtor until the case can be tried. "Final process" is a writ or

warrant issued after the case is tried, to imprison the debtor until he pays or performs the judgment rendered against him.

34. **Right of Assembly and Petition.** (22)—The people may at all times meet and counsel together for the common good, and to petition the proper authorities for the redress of their real or supposed grievances.

35. **Bills of Attainder.** (23)—Following the example set in the Constitution of the United States, Iowa, also, forbids all bills of attainder and ex post facto laws. **A Bill of Attainder** is an Act of a legislature inflicting the punishment of death upon a person for treason or other crime, without trial by a regular court; it takes away his right to inherit property or to transmit property to his heirs. **Ex post facto Law** is a law that makes punishable as a crime an act which was not criminal when done, or that increases the penalty for a crime after it has been committed.

36. **Rights of Foreigners.** (24)—Persons of foreign birth residing within the State enjoy the same property rights as native-born citizens. This liberal policy has attracted a large immigration from European countries and contributed very much to the rapid development of the State. A foreign-born citizen who becomes naturalized under our laws is not considered an alien in any sense, and enjoys the same rights of citizenship as if native-born.

37. **Slavery Forbidden.** (25)—Slavery never had legal existence in Iowa; but, at the time the

State was organized, the institution was strongly entrenched in the South. The conflict of opinion between the North and South over the extension of slavery was very bitter, and the application of a new State for admission to the Union was always the signal for heated discussion and controversy.

38. **Result of Compromise**—In the year 1846, both Iowa and Florida were seeking admission to the Union. In the former antislavery sentiment prevailed, while the interests and sympathies of the latter were with the slave States. As either of these applications, standing alone, would excite great opposition from those holding contrary views upon the slavery question, a compromise was effected by which both States were admitted at the same time and by the same bill or act of Congress—one as a free and the other as a slave State.

39. **A Monument of Honor**—To the present generation, it seems an anomaly that a "free country" should deem it necessary to put up a constitutional barrier against slavery; but, to those familiar with the prejudices and passions then surrounding this subject in the public mind, the constitutional prohibition of human bondage stands as a monument to the wisdom, justice, and honor of the men who laid the foundation of our State.

40. **Leases of Lands.** (26)—Leases of agricultural lands for terms of more than twenty years are invalid.

41. **Reasons for such Restriction**—Long leases and other devices by which the ownership of lands is perpetuated indefinitely in the same family or line of descent tends to create a landed aristocracy and thus to weaken and endanger republican institutions. They also serve to prevent the division and sale of lands and thereby lessen the number of citizens who own and control their own homes.

CHAPTER VII

RIGHT OF SUFFRAGE

1. **Its Importance**—The right to vote is the most sacred and valuable privilege which can be conferred upon the citizen. It is therefore highly proper that the Constitution should define such privilege in clear terms and guard it so far as possible from abuse and destruction.

2. **Qualification for Suffrage.** (30)—The right to vote depends upon the following qualifications:

1st, Sex; 2d, Citizenship; 3d, Age; 4th, Residence.

These qualifications are separately considered in the following sections.

3. **Sex**—During the earlier history of the republic the right of suffrage was exercised by male citizens alone. Of late years the extension of suffrage to women has been earnestly advocated and the proposition has been received in many States with increasing favor. Several States

make no distinction between the sexes in this respect, but extend the voting privilege to men and women on equal terms.

4. **Partial or Limited Suffrage**—In some States where equal suffrage does not yet prevail, women have been granted the right to vote for school officers and upon certain other matters of a local character. In Iowa women are permitted to take part in school elections and in elections upon questions of issuing bonds, borrowing money, or increasing taxation.

5. **Citizenship**—To be a legal voter a person must be a citizen of the United States. All native-born and naturalized subjects of the general government are citizens. Congress prescribes that a foreign-born person may be naturalized after living in this country five years. The first step is to declare an oath before a court that he intends to become a citizen; after this declaration, he must wait two years; then, if the court is satisfied that he has lived five years in the United States and one year in the state in which the court is held, it may admit him as a citizen after he has sworn to support the Constitution of the United States.

6. **Age**—A citizen of immature age, and undeveloped mind and judgment is manifestly unprepared for the responsibility of suffrage. By the common law of England, generally followed in the United States, twenty-one years is fixed as the age at which the child is considered fitted for emancipation from parental control, and in har-

mony with this ancient rule the Constitution prescribes the same age as the period for admission to the most important privilege of citizenship.

7. **Residence**—The voter must have resided in the State six months and in the county where he offers his vote sixty days. Without some restriction of this kind great frauds could be easily perpetrated. Idle and corrupt men could go from place to place voting repeatedly on the same day, or, by temporarily concentrating in one or more precincts, manufacture fraudulent majorities for any candidate.

8. **Residence Defined**—The residence of a voter is his permanent home or place of abode. One who remains in a place for the temporary purposes of business, pleasure, or education, does not thereby become a resident or legal voter, even though such temporary sojourn be prolonged into months or years.

9. **Privilege of Electors.** (31)—On election days electors are privileged from arrest, except for treason, felony, or breach of the peace, during their attendance at the polls, and while going to and returning therefrom (32). They are also exempt from military duty on such days, except in time of war or public danger. The word "elector" is synonymous with "voter" or "legal voter."

10. **Reasons for Privilege**—These provisions are made to prevent the corrupt and oppressive misuse of legal process and military power. But for the privilege thus secured, voters might be

arrested on trivial charges or called away on unnecessary military service for the mere purpose of keeping them from the polls.

11. **Not Privileged**—As above noted, the privilege from arrest does not extend to persons charged with treason or felony, or to those who may be engaged in a breach of the peace. Treason and felonies are crimes of a grave and serious character, and it is to the interest of society that persons charged therewith be apprehended whenever and wherever found. A felony, under the laws of this State, is any public offense punishable by imprisonment in the penitentiary.

12. **Persons in Military Service.** (33)—Members of the army and navy of the United States are not to be considered residents by reason of service at any military or naval station in the State.

13. **Not Entitled to Vote.** (34)—Idiots, insane persons, and persons convicted of any infamous crime are not legal voters. The term "infamous crime" as here used is synonymous with "felony" as defined in the eleventh paragraph of this chapter. This disability or penalty for crime can be removed by the order or pardon of the Governor of the State.

14. **Voting by Ballot.** (35)—The manner of voting is by ballot. Each State has its peculiar manner of balloting; but the essential features by which the voter is guarded from intimidation and improper influence, and the secrecy of the ballot preserved, are everywhere given special attention.

15. **Australian Ballot**—In Iowa, as in many of

the states, the so-called Australian method of balloting has been adopted. By this method all the different party tickets are printed in parallel columns upon one large sheet, and opposite the name of each individual candidate is placed a square, □. These ballots are furnished by public authority and placed in the hands of the judges of election at each polling-place.

16. **Manner of Balloting**—The person desiring to vote applies to the officers in charge of the polls and receives one of the sheets containing all the tickets as above described, and retires alone to a small stall or booth to prepare his ballot. If by reason of bodily infirmity or inability to read he cannot properly mark the ballot, he may have the assistance of two of the officers of the election.

17. **Marking the Ballot**—In the seclusion of the booth the voter proceeds to mark his ballot in favor of the ticket or candidate of his choice. If he wishes to vote what is ordinarily called a "straight" party ticket he place a cross × in the squares before the names of all the candidates appearing in one column under the party name of the party of his choice.

18. **Voting a "Mixed" or "Split" Ticket**—If the voter desires to vote a "mixed" or "split" ticket—that is, for the candidates of one party for certain offices and for the candidates of another party for other offices he places a cross, ×, in the square opposite the name of each individual candidate for whom he wishes his vote to be counted.

19. **Depositing the Ballot**—Before leaving the booth the voter is required to fold his ballot in such manner as to wholly conceal the vote he has prepared. This being done, he delivers it to the proper officer, who deposits it in the ballot-box.

20. **Voting Machines**—The use of voting machines is now permitted in this State. They simplify the method of voting and facilitate the counting of the votes at the close of an election.

21. **General Election**—The general election for State, district, county, and township officers is held each even numbered year on the Tuesday next after the first Monday in November.

CHAPTER VIII

DISTRIBUTION OF POWERS

1. **Three Departments.** (36)—The powers of the government are divided into three separate departments: the Legislative, the Executive, and the Judicial. In this respect, the plan or structure of the State government is identical with that of the National government.

2. **Departments kept Separate**—These departments are to be kept separate and independent of each other, and no officer of one department can lawfully exercise any duty or power belonging to either of the others.

CHAPTER IX

LEGISLATIVE DEPARTMENT

1. **General Assembly.** (37)—The legislative authority of the State is vested in a Senate and House of Representatives. Every law of the State begins with the sentence "BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA."

2. **Legislative Sessions.** (38)—The regular sessions of the General Assembly occur once in two years, beginning on the second Monday in January next after the election of its members.

Special sessions may be called at any time by proclamation of the Governor of the State.

3. **Election of Representatives.** (39)—Members of the House of Representatives are chosen every second year by vote of the qualified electors of their respective districts, and their term of office begins on the first day of January following their election. Representatives are chosen at the regular November election in each even numbered year.

4. **Qualification of Representatives.** (40) — A member of the House of Representatives must be a male citizen of the United States, twenty-one years of age, and at the time of his election must have been a resident of the State one year, and of the county or district he is chosen to represent at least sixty days.

5. **Senators.** (41)—Senators are chosen for the term of four years. They must be at least twenty-five years of age, and in other respects have the qualifications required for membership of the House of Representatives.

6. **Senators Classified.** (42)—The number of Senators must not be less than one-third nor more than one-half the number of Representatives, and so classified that one-half their number shall be elected every two years.

7. **Number of Members**—The number of members of the General Assembly is the maximum allowed by the Constitution (72), fifty Senators, and one hundred and eight Representatives.

8. **Officers**—The Lieutenant-governor of the

State is the President of the Senate (43). All other officers are chosen by their respective houses. The presiding officer of the House of Representatives is elected from its own membership, and is known as the Speaker. Each house chooses a chief clerk and assistants, a sergeant-at-arms, doorkeepers, and such other officers as may be found necessary for the proper despatch of business.

9. **Contests.** (43)—Whenever any question is raised as to the qualification or election of a member, the house in which he claims a seat decides it, and from such decision there is no appeal.

10. **Quorum.** (44)—A majority of each house constitutes a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

11. **Rules.** (45, 46)—Each house adopts its own rules of order and business, keeps a journal of its proceedings, and has power by a two-thirds vote to expel a member, but not a second time for the same offenses. Upon the demand of any two members of either house the vote upon any question shall be taken by yeas and nays, and a record of the same entered on the journals.

12. **Privilege.** (47)—Except for treason, felony, or breach of the peace, Senators and Representatives are exempt from arrest and imprisonment during the session of the General Assembly and while going to and returning therefrom.

13. **Vacancies.** (48) — Whenever a vacancy occurs in either house, the Governor of the State

issues a writ calling a special election to fill such vacancy.

14. Public Sessions. (49)—The sessions of each house are open to the public except when, in the opinion of such house, the public interests require secrecy. Secret sessions of either house are very rare. The general welfare is best served when the people are kept fully informed of the manner in which public officers are performing the trust reposed in them.

15. Bills. (51)—A proposed law presented by any member of either house, for the consideration of the legislature is called a bill. Bills may be first presented in either house, but are subject to be amended, altered, or rejected by the other.

16. How passed. (53)—In order to pass a bill, it must receive the vote or assent of a majority of all the members elected to each house.

17. Approval. (52)—When a bill has passed both houses, it is rewritten in full, embodying all amendments and changes, if any, which it has received during its consideration and passage. This copy, known as the "enrolled bill," is signed by the President of the Senate and Speaker of the House, and sent to the Governor for his approval. If the Governor has no objection to the bill he indorses his approval upon it, and the course of legislation as to such act is complete.

18. Where kept—After being signed and approved, the enrolled bill is filed with the Secretary of State and safely preserved. If any dispute afterward arises as to the exact language or read-

ing of the law, an examination of the enrolled bill is the final test. Any mistake made in the enrollment and not corrected before it is signed and approved, can be corrected only by the enactment of another law repealing or amending the defective act.

19. **Veto.** (52)—If the Governor does not approve a bill, it is his duty to return the same to the house in which it was first introduced, with a statement of his objections. Upon being so returned the bill is reconsidered, and, if it is again passed by a vote of two-thirds of all the members of each house, it becomes a law notwithstanding the Governor's veto.

20. **When Bill is to be Returned.** (52)—When a bill has been sent to the Governor and he does not return it within three days with his approval or veto, it becomes a law in the same manner as if he had approved it in the usual form. This rule does not apply where the legislature by adjournment prevents the return of the bill within the required time. Very many of the bills which become laws are not passed until near the close of the session, and to give the Governor ample opportunity to examine them he is allowed thirty days in which to approve or disapprove all bills sent to him during the last three days before final adjournment.

21. **Publication of Receipts, etc.** (54)—As soon as practicable after the close of a session of the General Assembly the laws enacted by it are published in book form. With these laws an accurate

statement of the receipts and disbursements of public moneys is given.

22. **Impeachments.** (55)—The only way in which the Governor, or any Judge of the Supreme or District Court, or other State officer can be removed from office for breach of duty is by impeachment. **To impeach** means to charge with a crime or misdemeanor, especially to charge an officer with misbehavior in office; it is analogous to an indictment by a grand jury. An officer may be impeached, and, on trial, be found "not guilty" of the accusation.

The House of Representatives acts as the accuser, and appoints a committee of managers from its membership to prosecute the accused officer, while the Senate sits as a court to hear and decide the case. No person can be convicted on such trial without the concurrence of two-thirds of the Senators present.

23. **Punishment.** (56)—The judgment to be entered upon a conviction in such case cannot extend beyond a removal of the convicted person from office, and his disqualification to hold any office of honor, trust, or profit under the State.

24. **Purpose**—The purpose of an impeachment is not the punishment of crime, but simply the removal of an unfit person from office; and any officer committing a public offense may be indicted, tried, and punished according to the usual forms of law whether he be impeached or not.

25. **Members Ineligible.** (57)—No Representa-

tive or Senator can be appointed to any civil office of profit under the State, which has been created or the emoluments of which have been increased during the session of the legislature in which he has served as a member. He who undertakes to legislate for the State should be uninfluenced by considerations of profit or advantage to himself; and this provision is made to remove any temptation, which otherwise might exist on the part of members, to create an office or increase the salary of an office for their own benefit. This restriction does not apply to elective officers.

26. **Officers Ineligible to Membership.** (58)—No person holding any lucrative office under the United States or this State or any other power is eligible to a seat in the General Assembly. A lucrative office is one to which some substantial salary or compensation is attached.

27. **Defaulters Disqualified.** (59)—No person who has been a collector or holder of public moneys can have a seat in either house of the General Assembly until he shall have accounted for and paid into the treasury all sums for which he is liable. It is obviously just that one who stands an admitted or proved defaulter should not be trusted to legislate for the State while refusing to make restitution.

28. **How Money Drawn.** (60)—No money can be lawfully drawn from the State treasury but in pursuance of appropriations previously made or authorized by law. Any other rule would place

too much power in the discretion of individual officers, and open the door to extravagance and corruption in public expenditures.

29. **Payment of Members.** (61)—The members of the first General Assembly received payment at the rate of three dollars per day and an additional allowance for traveling expenses. At present the compensation is $1000 and mileage for each regular session, with a proportionate amount for each special session based upon the number of days in the last preceding regular session.

30. **Laws take Effect.** (62)—Laws enacted at a regular session of the General Assembly take effect on the Fourth day of July next after their passage. Laws enacted at a special session take effect ninety days after the final adjournment of the General Assembly by which they are passed. If the General Assembly deems any law of immediate importance, it may provide that the same shall take effect at once upon publication of the same in two or more newspapers in the State.

31. **No Divorce Granted.** (63)—No divorce can be legally granted nor can any lottery be legally authorized by the General Assembly. In some States it was formerly the rule to grant divorce by special act of the legislature, but experience has shown that such matters can be best adjudicated in the courts.

32. **Lotteries Forbidden.** (64)—Though formerly recognized by law, lotteries and dealings in lottery tickets are now generally regarded as gambling transactions, having a demoralizing

effect upon all who engage therein. They are therefore wholly forbidden in this State.

33. **Subject Expressed in Title.** (65)—Each act or law passed by the General Assembly must embrace but one subject, which shall be indicated or expressed in the title. If any act or bill so passed contains any provision which does not relate to the subject named in the title, then such provision is void. So, too, if the title names or discloses two distinct subjects, then the act is entirely void.

34. **Special Laws Forbidden.** (66)—The General Assembly is forbidden to pass local or special laws for any of the following purposes:

1. For the assessment and collection of taxes;
2. For laying out and working highways;
3. For changing the names of persons;
4. For incorporating cities and towns;
5. For vacating roads, town plots, and public squares;
6. For locating and changing county-seats.

35. **Laws to be General.** (67)—As far as possible all laws must be general, and apply alike to all parts of the State.

36. **Extra Compensation.** (68)—No extra compensation can be made to any officer, public agent, or contractor, nor can there be any lawful appropriation of public moneys for merely local or private uses, without the approval of two thirds of all the members elected to each branch of the General Assembly.

37. **Oath of Office.** (69)—Each member of the

General Assembly must take and subscribe an oath or affirmation to support the Constitution of the United States and of the State of Iowa, and to faithfully perform the duties of his office to the best of his ability. The custom of requiring all newly elected officers to thus solemnly renew their allegiance to their country, and devote their best endeavors to the discharge of their official duties, is one of ancient origin, and is a fitting recognition of the high and important character of the public service.

38. **Census.** (70)—It is the duty of the General Assembly to cause an enumeration or census of the population to be made every ten years. This census is arranged to alternate at equal intervals with the United States census, which is also taken every ten years, thus securing an enumeration of the people every five years. The last State census was taken in the year 1905.

39. **Senatorial Districts.** (71)—At the first session after a State or National census has been taken the General Assembly fixes the number of Senators and divides the State into a corresponding number of senatorial districts.

40. **Membership Limited.** (72)—The membership of the Senate is limited to fifty and of the House of Representatives to one hundred and eight. These members are apportioned among the counties or districts of the State according to population, but each county shall have at least one representative.

41. Ratio—The ratio of representation in the house is determined by dividing the whole number of inhabitants of the State by the whole number of counties.

42. Representative Districts. (72)—Each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number of three-fifths of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

43. When Apportioned. (73)—At each regular session the General Assembly fixes the ratio of representation in the House of Representatives, and apportions the additional representatives.

44. Basis of Representation—It will be observed that representation in both legislative branches is apportioned to the number of inhabitants by counties rather than by an absolutely equal apportionment among the inhabitants of the State as a whole. The county is thus in some respects made the unit of representation (74).

45. Elections by General Assembly (75)—In addition to the election of its own officers the general assembly is also charged with the duty of electing Senators of the United States and various State officers. At all such elections the members must vote orally, and the votes so announced must be entered on the journal. The reasons for voting by secret ballot at ordinary elections by

the people do not apply to elections by the legislature. The members act in a representative capacity, and it is the right of each member's constituents to know how he discharges the duty confided to him.

CHAPTER X

EXECUTIVE DEPARTMENT

1. **The Governor.** (76)—The supreme executive power of the State is vested in a chief magistrate, whose official title is "The Governor of the State of Iowa."

2. **How and When Elected.** (77)—He is elected by vote of the qualified electors of the State at the election at which members of the General Assembly are chosen, being the regular election in November of each even-numbered year, and holds his office two years from the time of his installation and until his successor is elected and qualified.

3. **Lieutenant Governor.** (78)—A Lieutenant Governor is also elected at the same time and for the same term as the Governor.

4. **Returns of Election.** (78)—The returns or reports of the votes cast for Governor and Lieutenant Governor, as the same have been collected and counted by the proper officers in each of the several counties of the State, are sealed up and sent to the State Capitol, directed to the Speaker of the House of Representatives.

5. **Canvass of the Vote.** (78, 79)—As soon as the General Assembly is organized by the election of its own officers, the two houses meet in joint session in the representative chamber. The meet-

ing is presided over by the Speaker of the House of Representatives, who opens the sealed returns in the presence of all the members. The votes thus reported for the several candidates for the offices of Governor and Lieutenant Governor are footed up, and those appearing to have received the greatest number for the respective offices are declared duly elected.

6. **Tie Decided**—Should it happen that a tie is found in the votes of any two or more of the candidates for either office, the Joint Assembly proceeds at once to make an election from the candidates thus standing equal in the popular vote. The possibility of a tie ever occurring in the vote of a great State is very remote.

7. **Contested Elections.** (80)—Much more probable than a tie is a case in which disputes arise over the regularity or the returns of an election.

If the election of a Governor or Lieutenant Governor is thus contested, it is to be decided in such manner as the General Assembly may by law provide. Under the statute now in force, when such a contest is made the Senate and the House of Representatives each selects by lot seven of its own members, and the fourteen persons thus designated constitute a committee or court before which the trial is had. The finding and judgment of the committee is final and conclusive.

8. **Eligibility.** (81)—To be eligible to the office of Governor or Lieutenant Governor, a person must be at least thirty years old, and must have been a citizen of the United States and a resident

of the State for the two years next preceding his election.

9. **Commander in Chief.** (82)—The Governor is commander in chief of the militia, army, and navy of the State. The State maintains no army or navy in times of peace.

10. **Executive Business.** (83)—He represents the State in the transaction of all executive business with the officers of government, civil and military. He may also call upon any of the officers of the executive department for reports upon any subject relating to the duties of their respective offices.

11. **Filling Vacancies.** (85)—When any office becomes vacant, and the law has not provided any other method for filling such vacancy, the Governor may fill it by appointment. Such appointment will expire at the next session of the General Assembly or at the next election by the people.

12. **Extra Sessions.** (86)—When in his judgment the circumstances require it, he may convene the General Assembly in special session. When so convened, it is his duty to explain to both houses the reasons why he has called them together.

13. **Messages.** (87)—The Governor sends to the General Assembly at each regular session a formal message, reporting the condition of the State, and making such recommendations as he thinks expedient.

14. **Adjourning the Legislature.** (88)—Should

the two houses be unable to agree as to the time for the final adjournment of any session, the Governor has power to declare the General Assembly adjourned to such date as he may think proper, but not beyond the time fixed by law for the meeting of the next General Assembly.

15. **Must Hold No Other Office.** (89)—While exercising the office of Governor or Lieutenant Governor a person must not hold any other office under the authority of the United States or of this State.

16. **Official Term.** (90)—The official term of the Governor and Lieutenant Governor begins on the second Monday of January next after their election. If for any reason no election is held at the proper time, or if the person elected to either of these offices fails to accept or qualify by taking the prescribed oath, there is no vacancy, because the incumbent of the office for the prior term holds over until a successor is duly elected and qualified.

17. **Holding Over**—As the General Assembly which canvasses the vote for Governor and Lieutenant Governor does not convene until the second Monday in January, and cannot proceed with the canvass until both houses are duly organized, it rarely, if ever, happens that the newly elected executive is inaugurated promptly on the first day of his official term. It has happened on one or two occasions that a long contest over the election of Speaker of the House of Representatives has delayed the inauguration for weeks, during

which time the retiring Governor and Lieutenant Governor have held over.

18. **Reprieves and Pardons.** (91)—The Governor has power to grant reprieves, commutations, and pardons for all offenses except treason and cases of impeachment. In cases of treason he may suspend the execution of the sentence until time is had to report the matter to the General Assembly, which may pardon, commute the sentence, or order it to be carried into effect. He may also remit fines and forfeitures.

19. **Words Defined**—A reprieve is an executive order postponing or extending the time for carrying into execution the judgment or sentence pronounced by the court in a criminal case. A commutation is an executive order modifying or changing such judgment or sentence to one of less severity. A pardon is an executive order by which a person convicted of crime is forgiven and wholly relieved from the judgment or sentence pronounced against him. To remit a fine or forfeiture is to relieve the person charged therewith from all liability for its payment.

20. **Order of Succession.** (92)—In case of the death, impeachment, resignation, removal from office, or other disability of the Governor the duties of the office devolve upon the Lieutenant Governor (94). If the Lieutenant Governor, while acting as Governor, be impeached, die, resign, or be otherwise disabled, the president *pro tempore* of the Senate acts as Governor, and

should he also be rendered incapable of performing the duties of the office, they devolve upon the Speaker of the House of Representatives.

21. **Office Never Vacant**—Should the office of Governor ever become vacant, and the State government thus be left without a responsible head or superintendent, much confusion and possible anarchy would follow. Hence the careful provision above mentioned to provide for the succession, should the duly elected incumbent be in any manner removed or disqualified. The instant one incumbent dies or becomes incapacitated the powers of the office devolve upon his successor, and there is never a time when there is not some one to whom the people may look as the chief magistrate.

22. **President of the Senate.** (93)—The Lieutenant Governor acts as president of the Senate, but has no vote in its proceedings except when the Senate is equally divided. In the event of his absence or impeachment, or when exercising the office of Governor, the Senate chooses a president *pro tempore* from its own membership.

23. **Great Seal.** (95)—The State provides, for the use of the executive, a seal termed The Great Seal of the State of Iowa. This seal is an instrument by which the name and emblem of the State may be impressed upon paper, parchment, or other similar material upon which an official document is written.

24. **How Used.** (96)—When the Governor has occasion to issue a proclamation, or sign a com-

mission, or to execute any other important instrument in his official capacity, he causes an impression of the seal to be made thereon opposite his name. The presence of the seal upon the document is a sign and evidence of its official character and of the genuineness of the Governor's signature.

25. **Secretary of State.** (97)—It is the duty of the Secretary of State to keep and preserve all the original laws and resolutions of the legislature, the original and authentic copies of the State constitutions and of the amendments thereto; also all books, records, maps, registers, and papers lawfully deposited in his office. He countersigns all commissions issued by the Governor, keeps a register of such commissions, and has many other duties of minor importance.

26. **Auditor of State.** (97)—The office of Auditor of State is one of great importance. He is the general bookkeeper and accountant of the State. He keeps strict account of all financial transactions between the State and all other States, governments, officers, and private persons; settles the accounts of public debtors, and all claims against the treasury. No money, however small the amount, can be lawfully drawn from the State treasury otherwise than upon his written warrant or order. He is also charged with enforcing the laws regulating the business of insurance and of banking within the State.

27. **Treasurer of State.** (97)—As indicated by his title, the chief duty of the Treasurer is to

receive, safely keep, and properly account for all moneys of the State. He must make no payments from the treasury but upon the warrant or order of the auditor, and must keep a full and detailed account of all his receipts and disbursements.

28. **Executive Council**—The Governor, Secretary of State, Auditor of State, and Treasurer of State constitute what is called the Executive Council. This council superintends the State census, has charge and care of the property of the State where no other provision is made therefor, purchases the necessary furniture and supplies for the several State offices, and makes such other lawful expenditures as are found necessary and are not otherwise provided for. It also assesses railroads, express companies, and telephone and telegraph companies for the purposes of taxation, and equalizes the general assessment of property as between the different counties of the State.

29. **Attorney-General.** (110) — The Attorney-General is the legal representative or attorney for the State. He must attend in person at each session of the General Assembly and give the members and State officers the benefit of his advice upon matters of law. He also represents the State in the courts in all matters affecting its interests.

30. **Superintendent of Public Instruction**—This officer, commonly known as the State Superintendent, has general supervision of the county superintendents and of all the common schools of the State. He hears and decides appeals taken from the acts and decisions of county superin-

tendents, attends teachers' institutes, and performs other services calculated to promote the efficiency of our system of public education.

31. **Railroad Commissioners**—Under an act of the General Assembly the State is provided with a Board of Railroad Commissioners. This board is given authority to inquire into any neglect or violation of the laws of the State by railway corporations, and to examine the condition of railroads and railroad bridges and cause them to be kept in repair. It also hears complaints made against railroad companies on account of overcharges, and in a general way undertakes the adjustment of controversies arising out of the manner in which such companies conduct their business. By a late law the commissioners are given similar supervisory power over express companies.

32. **Terms of Office**—Except the Judges, Clerk, and Reporter of the Supreme Court, mentioned in a subsequent chapter, the foregoing are all the State officials elected by the people.

The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, and Superintendent of Public instruction are elected in each even numbered year for a term of two years.

Railroad Commissioners are elected for a term of four years, two to be elected every four years beginning with the year 1906 and one to be elected every four years beginning with the year 1908.

33. **Salaries**—The salaries attached to the sev-

eral State offices which have been considered in this chapter are as follows:

Governor	$5000
Lieutenant Governor	2000
Secretary of State	2200
Auditor of State	2200
Treasurer of State	2200
State Superintendent	2200
Railroad Commissioner	2200
Attorney-general	4000

In addition to their regular salaries, the Secretary of State, Auditor, and Treasurer each receive $1200 per year for services upon the Executive Council. The Governor, for similar service, receives $800 in addition to his salary.

As the State has not yet provided an executive mansion, the legislature usually makes the Governor an additional allowance of $600 per year for house-rent.

CHAPTER XI

NON-ELECTIVE STATE OFFICERS

1. **How Selected**—Numerous lesser offices have been created by law and are filled by the appointment of the Governor or by the choice of the General Assembly. The most important of these are Adjutant-General, Board of Health, Board of Control, Board of Education, Commissioner of Labor Statistics, Oil Inspector, Mine Inspector, Food and Dairy Commissioner, and State Librarian, appointed by the Governor; and Wardens of the State Penitentiaries, State Printer, and State Binder, chosen by the General Assembly.

2. **Adjutant-General**—The Adjutant-General is chief inspector of the State militia, and keeps and preserves the military records of the State. He receives a salary of $2200 per year.

3. **Board of Health**—The State Board of Health shall consist of the Attorney-General and the State Veterinary Surgeon, who shall be members by virtue of their offices, one Civil Engineer and seven physicians, to be appointed by the Governor, each to serve for a term of seven years and until his successor is appointed. It has general supervision of matters affecting the health of the citizens of the State. It is also authorized to make such rules and regulations as it may deem necessary for the preservation or improvement of

public health, and it is the duty of all other officers of the State, county, township, and city to cooperate in enforcing such rules and regulations. Members of the board receive no salary.

4. **Commissioner of Labor Statistics**—This officer is most commonly called Labor Commissioner. His principal duty is to collect and publish statistics and information for the benefit of the laboring classes. The salary is $1800 per year.

5. **Oil Inspector**—The Oil Inspector, in person or by deputies, is required to examine and test the quality of all petroleum oils offered for sale within the State for illuminating purposes. If any such oils are found to be of dangerous character they are condemned, and it is made unlawful for the owner to sell them or offer them for sale after condemnation by the inspector. The inspector collects certain fees from owners of oils examined and tested by him. Of these fees he retains $1800 per year as his compensation, and pays the remainder into the State treasury.

6. **Mine Inspectors**—There are three mine Inspectors. Practical coal-miners are usually selected for this position. It is their duty to inspect the various mines of the State, and see that the laws regulating the manner of operating them are obeyed. They receive an annual salary of $1800 each.

7. **Board of Parole**—The Thirty-second General Assembly passed an act creating a Board of Parole consisting of three members to be appointed by the Governor with the approval of the senate.

The terms of office of the members of the First Board shall be for two, four, and six years respectively but subsequent appointments shall be for a period of six years.

The Board of Parole shall have power to establish rules and regulations under which it may allow prisoners within the penitentiaries, other than prisoners serving life terms, to go upon parole. The board is also made advisory to the Governor in the matter of final pardon, and it is made its duty, under his direction to take charge of all correspondence in reference to the pardon of persons convicted of crime and to file its recommendation with the Governor, with its reasons.

8. **Food and Dairy Commissioner**—The Food and Dairy Commissioner is required to secure as far as possible the enforcement of the law to suppress and punish the fraudulent sale of imitation butter and cheese. He is also charged with the enforcement of the pure food laws. Salary, $2700.

9. **State Librarian and Fire Marshall**—The Librarian has principal charge of the State Library. Salary, $2400. The Fire Marshall preserves a record of all fires within the State, their origin, extent of loss, etc. Salary, $2500.

10. **Wardens**—A Warden is selected for each of the two penitentiaries. He is charged with the general management and control of the prison over which he is appointed. Salary, $2000.

11. **Printer and Binder**—The State Printer and State Binder, as their titles indicate, print and bind the various books, reports, and public doc-

uments issued by the State. They receive compensation in fees according to the work performed.

12. **Other Officers**—In addition to officers above named we have a Pharmacy Commission, which examines and certifies to the competency of persons wishing to engage in buying and selling drugs and medicines; a Custodian of Public Buildings, who has charge of the State capitol and grounds; a Veterinary Surgeon, who has general supervision of contagious and infectious diseases among domestic animals; a Fish and Game Warden, who looks after the preservation of fish in the waters of the State and the enforcement of the fish and game laws. And a Superintendent of Weights and Measures, who has charge of the standards of weight and measure adopted by the State.

13. **Board of Control**—The Board of Control of State Institutions consists of three members appointed by the Governor, for a term of six years at a salary of $3000 a year. It has charge of all the State charitable and penal institutions.

14. **State Board of Education**—The State Board of Education consists of nine members appointed by the Governor with the consent of two-thirds of the Senate. Not more than five members may be of the same political party. The term of office is six years. The board has supervision over the State educational institutions.

15. **Historical Department**—A Curator of Historical Collections is appointed by the trustees of the State Library. His term of office is six

years, and salary $1800. The duty of this officer is to collect and arrange books, records, and materials illustrative of the history of Iowa and the Western States. He also collects and preserves mementos of the pioneers and soldiers of Iowa.

CHAPTER XII

STATE INSTITUTIONS

1. **Educational**—The State has established three large schools for the higher education of its young people. These are the State University at Iowa City, the State College of Agriculture and Mechanic Arts at Ames, and the State Teachers' College at Cedar Falls.

2. **Reformatory**—It has also established an Industrial School for the reformation and education of incorrigible and criminal children. This school has two departments or branches—one for boys at Eldora, and one for girls at Mitchellville. The age at which children may be committed to these institutions is as follows—boys between the ages of nine and sixteen; girls between the ages of nine and eighteen. There is also a reformatory for adults at Anamosa.

3. **Penal**—For the detention, punishment and reformation of persons convicted of grave offenses against the laws of the State there are penitentiaries at Fort Madison and Anamosa. At the latter place the prison has a separate department for women, and a ward for the criminal insane.

4. **Charitable**—Iowa has also made generous provision for its needy and afflicted. Its chief benevolent institutions are the

Hospital for the Insane at Mt. Pleasant;
Hospital for the Insane at Independence;
Hospital for the Insane at Clarinda;
Hospital for the Insane at Cherokee;
School for the Deaf at Council Bluffs;
Institution for the Feeble-minded at Glenwood;
College for the Blind at Vinton;
Hospital for Inebriates at Knoxville;
Soldiers' Home at Marshalltown;
Soldiers' Orphans' Home at Davenport;
Sanatorium for the treatment of tuberculosis at Oakdale.

5. **Supervision**—A Board of Education of nine members has general supervision of the State University, State Agriculture College, State Teachers' College and the College for the Blind at Vinton. All other State institutions are under the management of the Board of Control.

CHAPTER XIII

JUDICIAL DEPARTMENT

1. **Judicial Power.** (98)—The judicial power of the State is vested in a Supreme Court, District Court, and such other inferior courts as the General Assembly may from time to time establish.

2. **Supreme Court.** (99)—As originally established, the Supreme Court consisted of three Judges; but, under the power given the General Assembly to increase the number of Judges, the court as now constituted has six members.

3. **Election and Term.** (100)—The Judges are elected by the qualified voters of the State for terms of six years each—the terms being so classified that two Judges are elected every two years. The Judges whose terms first expire serve as Chief Justice for one year each, in the order of their seniority, the senior in age serving first. A Judge of the Supreme Court is ineligible to any other State office during the term for which he is elected.

4. **Jurisdiction.** (101)—The Supreme Court has appellate jurisdiction in cases in chancery, and is a court for the correction of errors at law. It has no original jurisdiction, that is, no suit or action of any kind can be first begun in the Supreme Court. All legal proceedings are begun

in some of the lower courts, and are brought into the Supreme Court by appeal.

5. **Chancery and Law.** (101)—For the purposes of this work, the distinction between chancery and law may be thus explained: All cases brought in court for a mere money demand, as for instance an ordinary action to collect a debt or recover damages, are triable to a jury and are called actions at law; while all cases in which something more than a mere money judgment is asked; as, the granting of a divorce, the foreclosure of a mortgage, or the setting aside a fraudulent deed, are triable to the court without a jury, and are called suits in chancery.

6. **On Appeal.** (101)—On appeal in a chancery case the Supreme Court hears and decides the controversy upon its merits without any reference to the decision from which the appeal is taken; but upon an appeal in an action at law it considers only the alleged errors or improper rulings of the lower court, and if it finds that a mistake has been made sends the case back for new trial. If no error is found the judgment appealed from is affirmed.

7. **Clerk**—The Clerk of the Supreme Court keeps the records of the proceedings of that tribunal, and issues all writs and orders necessary to carry its decisions into effect.

8. **Reporter**—The decisions of the Supreme Court are ordinarily accompanied by written opinions declaring and explaining the law upon the points or questions decided. It is the duty

of the Reporter to collect and publish these opinions in book form. The series of books thus issued is known as the "Iowa Reports."

9. **Terms of Office**—The Clerk and Reporter are elected for terms of four years each, beginning with the year 1898.

10. **District Court.** (102)—The State was originally divided into eleven judicial districts, in each of which was selected one District Judge. The districts now number twenty, are of irregular size, and have from one to four judges each. The court consists of a single Judge. Although there may be two or more Judges in a District, they do not sit together for the trial of cases. In this manner the court may be in session at several different places in the same district at the same time.

11. **Election of Judges.** (102)—Judges of the District Court are elected for terms of four years each by the qualified voters of their respective districts, and during the term for which they are elected are ineligible to any other State office except that of Judge of the Supreme Court.

12. **Jurisdiction.** (103)—The District Court is a court of law and equity. The word "equity" as here used is equivalent to the word "chancery" already explained. Its jurisdiction embraces practically every kind of legal controversy, civil and criminal. All civil actions where the amount in controversy is over one hundred dollars must be brought in the District Court, while those involving a less sum may also be brought there or

in a justice's court, at the option of the complaining party.

13. **Conservators of the Peace.** (104)—Judges of the Supreme and District Court are conservators of the peace throughout the State. "Conservator of the Peace" is an ancient term applied to an officer who has the authority to preserve the public peace, as in the prevention and suppression of rioting, fighting, and brawling.

14. **Style of Process.** (105)—By "process" is meant any writ or order issued by the court commanding a public officer or private citizen to do or not to do some specified act. "Style," as here used, is the name indicating the authority by which the process is issued and may be enforced. The style of all process is "The State of Iowa." For example, if a writ is issued commanding the sheriff to arrest a person or to do any other official act it will be directed to him in substantially the following form: "The State of Iowa,—To the Sheriff of Blank County: You are hereby commanded," etc. All criminal prosecutions are conducted in the same manner.

15. **County Attorney.** (112)—At the general election in each even-numbered year the qualified voters of each county elect a prosecuting attorney, whose duty it is to represent the State and County in the various courts and to conduct all criminal prosecutions. A criminal prosecution must always be begun in the county where the offense is committed.

16. **Salaries**—The salaries of the several officers of the judicial department are as follows:

Judge of the Supreme Court	$6000
Judge of the District Court	3500
Clerk of the Supreme Court	2200
Supreme Court Reporter	2200

The Clerk of the Supreme Court receives $600 for each completed volume of the Supreme Court reports.

The compensation of county attorneys varies from $900 to $2500, according to the population and amount of business performed.

17. **Grand Jury.** (114)—At each regular term of the District Court a Grand Jury is impaneled. It may consist of any number of persons, not less than five nor more than fifteen, as the General Assembly may by law provide.

18. **Duty of Grand Jury**—It is the duty of the Grand Jury to inquire into all indictable offenses committed within the county and to return indictments against the persons believed to be guilty thereof, if the evidence obtained is sufficient to justify such action. As elsewhere explained, an indictment is simply an accusation made by the Grand Jury charging the person therein named with some specific offense. All offenses the punishment of which may exceed a fine of one hundred dollars or thirty days in the county jail are indictable.

Under the power granted to the Legislature by Article 5, Section 15, of the Constitution, a law has been passed whereby the County Attorney may file an information without the intervention of a Grand Jury. This law applies to cases in which the punishment is more than a fine of one hundred dollars or imprisonment for more than thirty days. The Court has power to proceed upon this information in exactly the same manner as if an indictment had been returned by a Grand Jury.

19. **Trial Jury**—When a person has been indicted and arrested he enters a plea of "guilty" or "not guilty" to the charge made against him. If the plea is "not guilty," he is put upon trial. For this purpose a Trial Jury is formed entirely distinct from the Grand Jury. All jurors must be citizens, residents, and lawful voters in the county where they serve.

20. **Administration of Justice**—The method of administering justice in criminal cases may be thus briefly stated: The Grand Jury indicts or the County Attorney informs, the Sheriff arrests, the County Attorney prosecutes, the Trial Jury renders the verdict "guilty" or "not guilty," and the Judge enters judgment according to the verdict so rendered. The Judge also presides at the trial, rules upon objections to the introduction of evidence, and decides all questions of law.

CHAPTER XIV

THE STATE MILITIA

1. **Of Whom Composed.** (115)—All able-bodied male citizens of the State, between the ages of eighteen and forty-five years, constitute the Militia, and may at any time be called upon by the State to be organized into companies and regiments, and to receive military drill and instruction.

2. **Not Organized**—The power of the State in this respect has never been exercised. The danger of war is considered too remote to justify the annoyance and expense of maintaining a general organization, and the militia remains an unorganized but powerful reserve force, liable to be called into service at any time when the public safety seems to require it.

3. **National Guard**—A small volunteer force known as the National Guard is authorized by the laws of the State. It consists at present of four regiments of infantry of twelve companies each. Each regiment is divided into three battalions of four companies each.

The Governor is commander-in-chief, and may call out any part or all of the Guard whenever it is necessary to repel invasion, or to prevent or suppress insurrection, riot, or other breach of the peace.

4. **Exemption.** (116)—Persons who are conscientiously opposed to bearing arms may be exempted from military duty in times of peace.

5. **Election of Officers.** (117)—All commissioned officers of the militia, except staff officers, are elected by the organization with whom they are to serve, and receive their commissions from the Governor.

CHAPTER XV

STATE DEBTS

1. **The Public Credit.** (118)—The State cannot lawfully give or lend its credit to any individual, association, or corporation. It is also forbidden to assume the debts or liabilities of any individual, association, or corporation unless incurred in time of war for the benefit of the State.

2. **Limitation of Indebtedness.** (119) — Debts may be contracted to meet necessary expenses which have not been otherwise provided for, or to supply any deficiency in the ordinary income of the State, but the total amount of such indebtedness must never exceed two hundred and fifty thousand dollars.

3. **A Wise Restriction**—The wisdom of this constitutional safeguard against burdensome public debt has been demonstrated by the experience of many other States which, in the absence of such limitation, have given the aid of their credit to railroad and other private enterprises, and in-

dulged in extravagant expenditures until brought to the verge of bankruptcy.

4. **Losses to School Fund.** (120)—As explained in a subsequent chapter, the State has provided certain funds, the income from which is devoted to the support of its schools. If any loss occurs to these funds by the fraud, wrong, or mismanagement of the agents or officers in charge of them, such loss is to be treated as a permanent debt of the State, upon which not less than six per cent. interest shall be paid.

5. **War Debts.** (121)—Debts may also be contracted beyond the limit named in the second paragraph of this chapter whenever such step is necessary to repel invasion, suppress insurrection, or defend the State in time of war. Moneys raised under the extraordinary power thus given must not be applied to any other purpose whatever.

6. **Other Debts.** (122)—Other debts may be authorized by law for some single specified work, when the law providing for such work also provides for a tax with which to meet the expense incurred, and the same has been approved by a vote of the people.

No debt has ever been contracted by the State under this provision.

CHAPTER XVI

CORPORATIONS

1. **Word Defined**—A corporation is ordinarily an association of several persons organized in the manner prescribed by law and given power to act and transact business as a single individual. A single individual may also become incorporated by complying with certain legal requirements.

2. **Corporations for Profit**—A corporation for profit is one organized for the purpose of carrying on a business or enterprise for the pecuniary benefit of its members. Each member puts in such definite portion or share of the capital stock as he may subscribe, and beyond the amount so subscribed is not personally liable for any of the corporate debts.

3. **Other Corporations**—Corporations are also frequently organized for religious, educational, or social purposes. Many churches, lodges, societies, schools, and like organizations become corporate bodies of this class. Such corporations ordinarily have no capital stock.

4. **Corporate Name**—Each corporation adopts a distinctive name, by which it is known and in which all its business is transacted.

5. **Utility of Corporations**—Nearly all railroads, canals, and other great works of internal improvement have been constructed by corpora-

tions. Enterprises of this kind require such vast sums of money and are subject to so great risks that few if any men could be found with sufficient capital to undertake them, or, having the capital, would consent to so hazard it. By the use of corporations, however, a large number of people unite their comparatively small contributions into a large aggregate sum, and thus accomplish great works which otherwise would never be undertaken. In the same manner the most of the immense manufacturing and business enterprises of modern times are rendered possible.

6. **Subject to Control**—In view of the valuable privileges conferred upon corporations, and of the great power and influence exercised by aggregated wealth, the State reserves the right to regulate the manner in which they may be formed and in which they shall transact business. The State may also by proper proceedings in court have a corporation dissolved and its right to do business annulled whenever it fails to observe the law.

7. **How Created**—It was formerly the practice in most States to create each corporation by special act of the legislature. This plan was found to be productive of abuses and sometimes of corruption among legislators, and is now quite generally abandoned. Our own Constitution (125) forbids special legislation of this kind. A general law has been enacted prescribing certain simple rules and regulations by which any person or persons may become incorporated.

8. Property Taxable. (126)—The property of corporations is taxable in the same manner as the property of individuals.

9. State not to be a Stockholder. (127)—The State cannot become a stockholder in any corporation, nor can it lawfully assume the debt of any corporation unless incurred in time of war for the benefit of the State.

10. Municipal Corporations. (128) — Counties, cities, towns, and school districts, into which the State is divided for the purposes of local government, are called political or municipal corporations, though the latter term is more often confined to incorporated cities and towns. All such corporations are forbidden to become stockholders in any banking corporation, directly or indirectly,

11. Banking Corporations. (129 to 136)—Sections 5 to 12 inclusive of Article 8 of the Constitution, provide the manner in which corporations with general banking powers may be created. The banks here referred to are such as have the right to issue bills or notes to be circulated as money; but under the law of the United States providing for the national banking system, State banks of issue ceased to be profitable and no longer exist. These constitutional provisions are therefore of no present importance. Banks of deposit and exchange are provided for by act of the General Assembly.

12. Transportation Companies — Railroads, express and other corporations organized for the

purpose of carrying passengers and freight are sometimes spoken of as public corporations. Though owned by private parties their duties are of a semi-public nature, and the State assumes the right to supervise and regulate their dealings with the people. We have already noticed how this supervision is exercised through the Board of Railroad Commissioners.

13. **Commerce**—All buying and selling in which goods or merchandise is transported from one town or place to another is commerce. The Constitution of the United States reserves to Congress alone, the power to regulate commerce between the States. The State therefore cannot interfere with any corporation in the business of carrying passengers or freight from any point without the State to any point within it, or from any point within the State to any point without, except where Congress has expressly relinquished its supremacy.

14. **How Regulated**—For the general regulation of commerce betwen the States, Congress has enacted the Interstate Commerce Law, and provided for a national Board of Railway Commissioners appointed by the President of the United States. The State has supreme authority over all the traffic between the different cities, towns, and neighborhoods within its own borders.

CHAPTER XVII

PUBLIC EDUCATION

1. **Obsolete Provisions.** (138)—Sections 1 to 15, inclusive, of Article 9 of the Constitution created a State Board of Education, consisting of the Lieutenant-Governor and one additional member from each judicial district.

The General Assembly was given power to change or abolish this board at any time after the year 1863, and did in fact abolish it in 1864, since which time the sections above mentioned have been inoperative.

2. **School Lands**—By the liberality of the Government of the United States, large grants of public lands were many years ago made to the State for the benefit of its schools. Some of these lands were appropriated to the special use of the State University, others to the State Agricultural College, and the remainder to the common schools.

3. **Educational Funds** — The moneys arising from the sales of these lands constitute perpetual or permanent funds, which are kept invested in interest-bearing securities, and the income thus realized is distributed at stated periods to the several beneficiaries.

4. **Escheats.** (141)—When a person dies leaving no will or heir, his property goes to the State,

and becomes a part of the permanent fund for the support of common schools.

Property thus coming to the State is called in law an escheat.

5. **Temporary School Fund**—All forfeitures and fines, and the proceeds of the sales of lost goods and estray animals, are paid into the county treasury and constitute the Temporary School Fund. All moneys in this fund are distributed among the several school districts of the county twice a year.

6. **How Distributed.** (145)—The interest derived from the Permanent School Fund, together with the moneys in the Temporary Fund, are distributed to all the school districts in proportion to the number of youths between the ages of five and twenty-one years.

7. **State University**—It is provided by law that "the object of the State University shall be to provide the best and most efficient means of imparting to young men and women on equal terms, a liberal education and thorough knowledge of literature, the arts and sciences, with their varied applications."

8. **Preparation Required**—So far as practicable, the courses of study in the University begin where the same are completed in the high schools; and no student can be admitted who has not completed the elementary studies in such branches as are taught in the common schools.

9. **State College of Agriculture and Mechanic Arts**—This institution, now commonly known as

the "State College," provides for the student a broad, liberal, and practical course of study, in which the leading branches of learning relate to agriculture and the mechanic arts. It also embraces such other lines of study as will most practically and liberally educate the agricultural and industrial classes in the several pursuits and professions of life, including military tactics.

10. **State Teachers' College**—The State Teachers' College is established and maintained for the special instruction and training of teachers.

11. **Work Accomplished**—Each of these schools has been very successful in its special line of work. All have a liberal attendance of students and many of their graduates have achieved a high degree of success and fame in the various pursuits of life.

12. **County High-Schools**—Each county may, by complying with certain conditions, establish a High School for the purpose of affording advanced pupils better educational facilities than are ordinarily found in district schools.

13. **High-School Departments**—Only one county maintains its High School, but most of the graded schools in cities and towns of any importance have high-school departments, affording all the advantages which could be derived from a county school. A legislative act has provided for a normal course to be given in certain High Schools, and the State furnishes funds for these courses.

14. **School Districts**—The organization of School Districts will be considered in a later chapter.

CHAPTER XVIII

CONSTITUTIONAL AMENDMENTS

1. **How Proposed.** (146)—Any amendment to the Constitution may be proposed in either house of the General Assembly, and, if agreed to by a majority of all the members elected to each house, it is then laid over to be acted upon by the next General Assembly. Before the next election notice of the proposed amendment is published throughout the State, and if the General Assembly next elected agrees to it by a like majority, the question is finally submitted to a vote of the people. If these various steps have been regularly pursued, and a majority of those voting upon the question is found to be in favor of the proposition, the amendment becomes part of the Constitution.

2. **Why these Formalities**—As the standard by which all legislative acts, judicial decisions, and private rights are to be determined, it is a matter of great importance that the Constitution be as fixed and stable as possible, and that all proposed changes be thoroughly discussed and understood by the people. By the plan above outlined, at least two years are given for the discussion and examination of a proposed amendment, and an effectual guard is thus created against hasty and ill-advised changes.

3. **Separate Vote.** (147)—If two or more amendments are submitted at the same time, it must be done in such manner that they can be voted upon separately. Of several amendments the voter may desire to support some and oppose others, and this provision for a separate vote enables him to do so.

4. **Constitutional Convention.** (148)—Once every ten years, beginning with the year 1870, the question "Shall there be a Convention to revise the Constitution and amend the same?" is submitted to the voters of the State.

The General Assembly may also submit the question at any time. If a majority of votes is cast in the affirmative, the General Assembly at its next session provides for the election of delegates to such convention by the duly qualified voters of the State.

5. **Work of Convention**—The delegates thus selected meet and make such revision of the Constitution as they deem wise; but before their work is of any validity it must be approved by the voters of the State at an election held for that purpose. Since the adoption of the present Constitution, in the year 1857, no convention has been called.

6. **Amendments Adopted**—Prior to the year 1863 negro slavery prevailed in nearly one-half of the nation, and even in the free States there were strong prejudices against conceding equal political rights to colored citizens. Under these influences the Constitution of the State, as origi-

nally adopted, excluded this class of people from the right of suffrage (30) and the right to membership in the General Assembly (40, 41). It also excluded them from enumeration in the census (70), from representation in both houses of the General Assembly (71, 72), and from the State militia (115). All these discriminations were abolished by amendments adopted in 1868.

7. **Other Amendments**—Several other amendments have been adopted, and will be found clearly noted in their proper connection in the text of the Constitution (see Chapter I).

CHAPTER XIX

MISCELLANEOUS PROVISIONS

1. **Justice's Courts.** (149)—The jurisdiction of Justices of the Peace extends to all civil cases within their respective counties, where the amount in controversy does not exceed one hundred dollars, except cases in chancery or cases in which the title to real property is involved. By consent of the parties the jurisdiction may be extended to any amount not exceeding three hundred dollars.

2. **Jurisdiction Defined**—By the word "jurisdiction" as applied to courts, is meant the authority to hear, try, and determine cases and proceedings brought for the settlement of legal controversies, and the power to declare and enforce the law.

3. **New Counties.** (150)—No new county can be created having less than four hundred and thirty-two square miles. This area is the equivalent of twelve townships, according to the government survey. Counties are organized for local government and local convenience, and to make them unnecessarily numerous would increase the public expense for court-houses and salaries of county officers, without compensatory advantages.

4. **Exception.** (150)—Worth county and the counties west of it along the northern boundary of the State are excepted from this rule, and may be organized with an area less than four hundred and thirty-two square miles. This exception is made because the north boundary of the State (which is forty-three degrees and thirty minutes north latitude) lies a little south of the north line of the surveyed townships along that border. This discrepancy places a small portion of each of these bordering townships over the line in the State of Minnesota, but the larger fractions left under the jurisdiction of Iowa are treated as full townships for the purpose of county organization.

5. **Limit of Indebtedness.** (151)—No county, city, town, or school district is allowed to become indebted in any manner or for any purpose to an amount exceeding five per centum of the assessed value of the taxable property within its jurisdiction. Any contract or promise to pay in excess of this limit is void, and cannot be enforced at law.

6. **Oath of Office** (153)—Every person elected or appointed to any office is required before entering thereon to take an oath or affirmation that he will support the Constitution of the United States and of the State of Iowa, and will faithfully, impartially, and to the best of his ability discharge the duties of such office.

7. **Vacancies in Office.** (154)—A vacancy occurring in any elective office is, as a rule, temporarily filled by appointment. The person appointed holds only until the next regular election, at which time some one is elected to fill the place. He who is thus elected to fill a vacancy holds the office for the remainder of the unexpired term.

8. **Appointments** — Appointments to fill vacancies are made as follows:

By the Supreme Court in the offices of clerk and reporter of the Supreme Court;

By the Governor, in all other State offices and in the membership of any board or commission created by the State;

By the Board of Supervisors, in all county offices except in the office of supervisor, which is filled by the county auditor, clerk, and recorder;

By the Township Trustees, in all township offices except where the offices of all three trustees are vacant, when the township clerk may appoint;

By the Mayor or by the Mayor and Council, in all municipal offices except in cases where a special election is provided for by law.

A vacancy in either house of the General Assembly cannot be filled by appointment, but in such

case the Governor issues an order for a special election by the people of the district where the vacancy exists.

9. State Capital. (156)—The seat of government is permanently established at Des Moines, and the State University at Iowa City. Neither can be changed or removed to any other location without a constitutional amendment.

10. Schedule. (157-159)—Article 12 of the Constitution, entitled "Scedule," is in effect an appendix to the main body of the instrument prescribing when and how the Constitution should take effect, the time of holding the first elections thereunder, and other similar matters whose temporary purposes have been served and require now no special consideration.

CHAPTER XX

COUNTIES AND COUNTY GOVERNMENT

1. **Number and Area**—The State is divided into ninety-nine counties. With a few exceptions these counties are rectangular in form and contain either twelve or sixteen surveyed townships, each six miles square.

2. **County-seats**—Each county has selected some convenient town or site as its seat of local government. At this place, known as the "county-seat," are erected a court-house and offices for the several county officers. Here the terms of the District Court are held, the records of the county are kept, and the county business generally is transacted. County-seats may be changed or relocated by vote of the people at an election properly called for that purpose.

3. **County Officers**—The officers of the county are Supervisors, Auditor, Treasurer, Recorder, Clerk of the District Court, Sheriff, County Attorney, Superintendent of Schools, Surveyor, and Coroner.

4. **Supervisors**—The general supervision and management of county affairs is intrusted to a Board of Supervisors. The board regularly consists of three persons, but by vote of the people the membership may be increased to five or seven.

They are elected for terms of three years each, but the terms must be so arranged that at least one Supervisor may be elected each year.

5. **Duties of Board**—The Board of Supervisors is charged with numerous and important duties, the most important of which are as follows:

(*a*) To manage and control the county property.

(*b*) To settle with all county officers concerning the receipts and expenditures of their several offices.

(*c*) To build and keep in repair the necessary county buildings and all county bridges.

(*d*) To establish, change, and vacate public roads.

(*e*) To provide for the relief and support of the poor of the county.

(*f*) To examine all claims made against the county and allow such as they find to be just.

(*g*) To canvass the votes of the county at general and special elections; and

(*h*) To represent the county in all litigation, and in general to protect its rights and interests as circumstances may seem to render necessary.

6. **Meetings**—Regular meetings of the Board of Supervisors occur on the second secular day in January and on the first Monday in April and June and the second Monday in September in each year, and on the first Monday in November in the odd numbered years, and on the first Monday after the general election in the even numbered years. Special meetings may be held from

time to time in the discretion of the Board. All meetings shall be held at the county-seat.

7. **Auditor**—The County Auditor acts as clerk of the Board of Supervisors, records its proceedings, signs all orders or warrants upon the Treasurer for the payment of claims allowed by the Board, and makes out and delivers to the Treasurer the yearly tax-lists. He is the general accountant or bookkeeper of the county, and keeps a detailed account and record by which the board may settle with all other county officers and agents. He also has special care and charge of the court-house, subject to the direction of the Supervisors, and performs such other services as may be required of him by law.

8. **Treasurer**—The Treasurer receives all money payable to the county, and disburses it only on the proper warrant or order signed by the Auditor and sealed with the county seal. He also collects the taxes, and keeps an exact and faithful record of all his receipts and payments of public funds.

9. **Recorder**—The Recorder copies in full and at length upon the books of his office all contracts, deeds, mortgages, and other written instruments delivered to him for that purpose, which in any way transfer, change, or affect the title to property situated within the county.

10. **Clerk**—The Clerk keeps a record of all the proceedings of the District Court, and issues all writs, warrants, and process required by law or by order of the court in such proceedings. He issues licenses for all marriages to be solemnized,

and keeps a register of all births and deaths within the county.

11. **Sheriff**—The Sheriff, by himself or deputy, serves all writs and other legal process issued to him by the court or other competent authority. He has charge of the county jail, and is required to receive and safely keep all persons duly committed to his custody until they are lawfully discharged.

12. **Conservator of the Peace**—It is his duty to prevent and suppress all violence and public offenses of every kind, and when necessary may call to his aid any citizen or citizens of the county. A citizen of the county when called upon by the Sheriff to assist him in preserving the peace or making an arrest cannot lawfully refuse so to do.

13. **County Attorney**—As we have already noted in the chapter upon the Judicial Department of the State, the County Attorney is the public prosecutor or attorney for the State in all prosecutions for crime committed within his county. It is also his duty to appear for and defend the county in all civil litigation, and give the benefit of his advice to the county officers in matters relating to their official duties.

14. **Superintendent of Schools**—As his title implies, the Superintendent has general supervision of the public schools. He conducts examinations of applicants for license to teach and forwards the answer papers to the State Superintendent of Public Instruction with a list of all the applicants

examined with the standing of each in didactics and oral reading and his estimate of each applicant's personality and general fitness, other than scholarship, for the work of teaching. The papers are graded under the supervision of the Educational Board of Examiners. He also visits the schools from time to time, holds teachers' institutes, and makes annual reports to the State Superintendent as to the state and condition of public education in his county.

15. **Decides Appeals**—The County Superintendent is also authorized to hear and decide all appeals properly taken from any order or decision of a district Board of Directors.

16. **Surveyor**—The County Surveyor surveys lands and establishes boundary lines and corners whenever called upon for that purpose by persons interested therein. Surveys made by him, within his county and properly recorded, are presumed to be correct until proved to be otherwise.

17. **Coroner**—The Coroner is required to hold inquest upon the dead bodies of such persons as are supposed to have died by unlawful means. He also performs the duties of sheriff in the absence, disability, or disqualification of that officer.

18. **Terms of County Officers**—County officers, except members of the Board of Supervisors, are chosen for terms of two years each, being elected in the even numbred years.

19. **Eligibility of Women**—Women are by law made eligible to the offices of Recorder and Superintendent of Schools.

20. **Salaries and Compensation**—The salaries of county officers are in some instances graded according to the population of the counties; in other instances are left, in whole or in part, to the discretion of the Board of Supervisors; and in still others are wholly dependent on the fees collected.

The following list shows with substantial accuracy the compensation received:

Auditor	$1,200 to $2,100
Treasurer	1,200 to 3,500
Clerk	1,100 to 2,200
Attorney	900 to 2,500
Sheriff	2,000 to 3,500
Recorder	1,200 to 2,000
Superintendent	1,200 to 1,500
Surveyor (to be paid by those who employ his services).	4 per day
Coroner	Fees (according to the services performed).

CHAPTER XXI

TOWNSHIPS AND TOWNSHIP GOVERNMENT

1. **Congressional Townships**—When the lands embraced within the State of Iowa were still owned by the Government of the United States, they were surveyed, in obedience to an act of Congress, into tracts, or blocks, six miles square, these blocks being in turn subdivided into smaller blocks of one mile square. Each of the large blocks is called a "Congressional township" or a "township according to government survey." The smaller blocks or subdivisions are called "sections." As shown in the preceding chapter, the boundary-lines of the counties are usually made to coincide with some of these lines of the government survey.

2. **Civil Townships**—For the purposes of greater convenience of local or neighborhood government, each county is divided into smaller parts, each of which is called a township. To distinguish these townships from those of the government survey, they are usually spoken of as "civil townships."

In most counties each congressional township is organized into a civil township, but there are quite frequent exceptions to this rule. The division of the county into townships is made by the Board of Supervisors, which has the power to increase

the number or change the boundaries in such manner as it may deem wise.

3. **Township Officers**—In each civil township there are three Trustees, one Clerk, two Justices of the Peace, two Constables, one Assessor, and one or more Road Supervisors.

4. **Trustees**—The Township Trustees act as overseers of the poor, equalize the assessment of property for the purposes of taxation, decide controversies as to boundary fences between adjacent landowners, assess damages done by trespassing animals, and serve as judges of election. They also act as a board of health, and perform other duties as may be required by law.

5. **Justices of the Peace**—A Justice of the Peace has authority to sit as a court for the trial of all cases coming within the limit of his jurisdiction. As has been before explained, this jurisdiction in civil matters is restricted to cases where the amount in controversy does not exceed one hundred dollars, and in criminal matters to cases where the punishment cannot exceed a fine of one hundred dollars or thirty days' imprisonment in the county jail.

6. **Other Powers**—He may also solemnize marriages, take the acknowledgement of deeds and other written instruments, administer oaths, and, in the absence of the coroner, may hold inquests upon dead bodies when the circumstances call for such investigation.

7. **Constables**—The principal duties of Constables are to serve notices and execute warrants

and writs issued by Justices of the Peace. They are also required to serve all notices and other process lawfully directed to them by the Township Trustees, Township Clerk, or by any court.

8. **Clerk**—The Clerk keeps a record of the proceedings of the Township Trustees, acts as clerk of election, makes out the road-tax lists for the use of the Road Supervisors, and receives and disburses the road tax collected by the County Treasurer for the use of his township.

9. **Assessor**—It is the duty of the Assessor to make and deliver to the County Auditor a list of all taxable property in his township, together with his estimate of the value of each item of such property. The value thus fixed by him, after being revised and equalized by the Township Trustees, is the basis upon which all taxes are levied. Personal property is thus assessed every year, but real estate is assessed once in two years.

10. **Road Superintendent**—Each township is divided by the Trustees into districts of convenient size, in each of which a Road Superintendent is elected. This superintendent has charge of the improvement and repairs of the public roads in his district. He expends the moneys collected for road purposes, and when any part of the road tax is payable in labor he calls out the persons liable to such duty and directs the manner in which it shall be performed

CHAPTER XXII

CITIES AND TOWNS

1. **Incorporation**—Until incorporated, a city, town, or village is considered simply as a part of the civil township in which it is situated, and has no distinct or separate local government. Incorporation is a legal proceeding by which such city or town is granted certain rights and privileges of local self-government.

2. **How Obtained**—Incorporation is obtained by applying to the District Court and obtaining an order for an election to be held in the territory proposed to be incorporated. If a majority of votes is cast in its favor and the proceedings are approved by the court the incorporation is complete, and another election is called for the selection of officers. When spoken of as a class, cities and towns thus set apart and granted powers of local self-government, are usually called Municipal Corporations.

3. **Classes**—The municipal corporations of this State are—

1. Cities of the first class;
2. Cities of the second class;
3. Towns. Town sites platted and unincorporated are called villages.

4. **Towns**—A municipal corporation having less than two thousand inhabitants is called a Town.

5. **Elective Officers**—The elective officers of a town are one Mayor, one Treasurer, one Assessor, and five Councilmen.

The council may by ordinance provide for the election of such other subordinate officers as it may deem necessary for the purposes of good government.

6. **Mayor**—The Mayor is the chief executive officer of the town, and presides at the meetings of the council, but has no vote on questions coming before it except in case of a tie. He is also a magistrate with the powers of a justice of the peace, and has exclusive jurisdiction to try persons charged with violation of the town ordinances.

7. **Clerk**—The Clerk is appointed by the Council and keeps a record of all the proceedings of the Council. He has no vote in the Council.

8. **Treasurer**—The Treasurer has custody of all moneys belonging to the town, and pays them out upon the order of the council and warrant of the Clerk.

9. **Assessor**—The duties of the Assessor within the town are similar to those of a township assessor, which are explained in the preceding chapter. An Assessor is also elected in each city of the first and second class.

10. **Marshal, etc.**—The Mayor appoints a Marshal, who has the powers of a constable. He executes the process of the Mayor, and preserves the public peace and order within the limits of the town. The mayor also appoints a health physician and street commissioner.

11. **Powers of Town**—Every town has power to prevent and suppress nuisances, riots, and breaches of the peace, to lay out and improve streets, to provide regulations against danger from fire, to prevent animals from running at large, to construct or permit the construction of water-works, and in general to do all those things which are necessary and reasonable to preserve the public peace and promote the safety and convenience of its inhabitants.

12. **Terms of Office**—All elective officers of an incorporated town serve terms of two years each.

13. **Ordinances**—The local laws and regulations enacted by the council are called ordinances. Persons violating these ordinances may be punished by fine or imprisonment.

14. **Cities of the Second Class**—Municipal corporations having more than two thousand and less than fifteen thousand inhabitants are cities of the second class.

15. **Powers**—Cities of the second class have all the powers and privileges of towns, together with certain additional privileges relating to public improvements and the regulation of business done within the city limits.

16. **Wards** — Each city is subdivided into smaller parts called wards. The city council is composed of one councilman from each ward elected by the qualified voters of such ward, and two councilmen at large elected by the qualified voters of the city. Councilmen are elected for a

term of two years. Members of the council are commonly called councilmen or aldermen.

17. **Mayor**—The Mayor of a city of the second class is elected for two years. He presides at the meetings of the council, but has no vote upon questions coming before it except in cases of a tie. He is also a magistrate with the same powers as the mayor of an incorporated town.

18. **Solicitor**—The City Solicitor is also elected for two years. He is the legal adviser of the city and its officers, and represents its interests in all litigation. In cities of four thousand inhabitants or less he is appointed by the council.

19. **Clerk**—The Clerk is appointed by the council, and performs duties similar to those required of the Clerk of a town.

20. **Marshal, etc.**—A Marshal, a health physician, a street commissioner and as many policemen as are deemed necessary are appointed by the Mayor.

21. **Cities of First Class**—All cities having more than fifteen thousand inhabitants rank as cities of the first class.

22. **Officers**—The officers of a city of the first class are Mayor, Councilmen, Solicitor, and Treasurer, having in general substantially the same powers as are exercised by officers of like name in cities of the second class. In addition to those named, each city of this class elects an Auditor, who keeps the books and accounts of the corporation; a Police Judge, who hears and de-

cides cases arising under the city ordinances; and an Engineer, who surveys and determines the grades of streets and does other skilled work of that nature. In addition to ward councilmen each city of the first class elects two councilmen at large.

23. Police—The Mayor of a city of the first class appoints the members of the police force, including a Marshal or Chief of Police, who hold their office during his pleasure. In cities of a population of more than twenty thousand the Chief of Police and Chief of the fire department are appointed by the Board of Police and Fire Commissioners, which board is appointed by the Mayor.

24. Superior Court—Any city containing a population of four thousand or more may by vote of its qualified electors establish a Superior Court. The judge of this court is elected at a regular city election, and holds his office for a term of four years.

25. Jurisdiction—The Superior Court has exclusive jurisdiction to try and determine all actions for violation of the city ordinances. It also has the power and authority usually exercised by justices of the peace, and in most civil matters exercises equal jurisdiction with the District Court.

26. Salary of Judge—A judge of the Superior Court receives a salary of $2000 per year, one half of which is paid from the city treasury and the other half from the county treasury.

27. **Number**—Council Bluffs, Cedar Rapids, Oelwein, Shenandoah, Perry, Keokuk, and Grinnell are the only cities in the State now (1912) maintaining a Superior Court.

28. **Annual Elections**—Except in some cities under special charters, the regular annual election for all city and town officers takes place on the last Monday in March.

29. **Special Charters**—It will be remembered that the present Constitution of the State (66) prohibits the incorporation of cities by special act of the Legislature, but at the time this provision was adopted a few of the older cities had already been incorporated by that method.

Of these cities, Dubuque, Davenport, Glenwood, and Wapello still retain their special charters granted under the old Constitution, but their government does not differ in essential particulars from that of other cities of the first class.

30. **Abandonment**—Any city or incorporated town may abandon its corporate government by vote of its qualified electors at an election called for that purpose.

If at such election two-thirds of the votes cast are in favor of the proposition and all corporate debts are paid, the corporation will be discontinued.

31. **Commission Plan of Government**—By an act of the Legislature cities having a population of seven thousand or more may adopt what is known as the Commission form of city government. This is done by an election, which

may be called on petition of twenty-five per cent. of the voters.

Commissioners are elected at large to take the place of the council, and these Commissioners have charge of the city's affairs. The object of this system is to eliminate many of the evils which ordinarily exist in city governments.

In order to give the people greater control over city affairs, provision is made for the removal of officers with whom they are dissatisfied. Such method of removal is known as the Recall.

There are also other means to give the people control over the management of the city affairs. These are the Initiative and Referendum. The Initiative is a provision by which the people may propose legislation without waiting for the action of the Commissioners. The Referendum is a provision requiring ordinances, such as those appropriating money or granting franchises, to be submitted to the people for their approval.

The commission plan may be discontinued by a vote of the inhabitants in the same manner as the plan is adopted.

Seven cities in Iowa have adopted (1912) this plan of city government.

CHAPTER XXIII

SCHOOL DISTRICTS

1. **Districts**—Each civil township is a School District and is ordinarily subdivided into smaller parts called sub-districts. The township when spoken of in its capacity as a school district is called a School Township.

2. **Directors**—Annually on the first Monday in March each sub-district elects a sub-director and the sub-directors thus elected together form a Board of Directors for the district township. The rural independent, city independent, and independent townships elect directors on the second Monday in March.

3. **Government**—The management of district affairs is exercised in part by the voters assembled in annual meeting and in part by the Board of Directors.

4. **Annual Meeting**—On the second Monday in March of each year the voters of the district township convene in a mass or general meeting. When thus legally assembled, they consider and determine many matters relating to district government, among the most important of which is the voting of taxes for the construction of schoolhouses and for the purchase of grounds.

5. **Organization of Board**—The Board of Directors shall meet in the first secular day in July

and organize by electing a president from their own number, and a secretary and treasurer from outside the board. In some districts the treasurer is elected by the people.

6. Powers of Board—The Board of Directors makes all contracts, purchases, sales, and payments necessary to carry out any vote of the district, and, subject to the powers vested in the annual meeting of the voters, it has full charge and control of the schools and school property within the district.

7. Powers of Sub-Directors—Under such reasonable rules and regulations as the board may adopt, each sub-director provides fuel for the school in his sub-district, employs teachers, keeps the buildings in repair, and has general control and management of the schoolhouse.

8. Independent Districts—Any city, town, or village may be made into a separate Independent School District by a vote of the people at an election called for that purpose. As a general rule all cities and towns are organized as Independent Districts, while in agricultural communities the district township system is retained.

9. Board of Directors—Subject to the rights of the voters in annual meeting, the government of an independent district is vested in a Board of Directors. In cities of the first class the board of directors of an independent district has seven members, in all other cities and towns five members, and in rural independent districts three members. They are chosen for three years each

and their terms are so classified that at least one is elected each year.

10. **Officers**—The Directors elect a President from their own number, and a Secretary from the district at large, the same as is done in district townships. In districts composed in whole or in part of cities or towns a treasurer shall be elected in the same manner as are the directors. His term of office shall be two years.

11. **Election**—The regular annual election and the annual meeting of the voters in each independent district occur together on the second Monday in March.

12. **Schools**—Under the system prevailing in this State every sub-district and independent district is supplied with at least one common school. The number of schools in each sub-district and independent district, and the location of the schoolhouses, are left to the discretion of the Board of Directors.

13. **School Year**—Twenty-four weeks of five days each constitute a school year. During this period a school must be taught in each sub-district and independent district for pupils between the ages of five and twenty-one years, unless otherwise directed by the County Superintendent. In actual practice most of the schools are in session from thirty-two to forty weeks in each year.

14. **Branches Taught**—In these schools pupils are instructed in reading, writing, spelling, arithmetic, geography, grammar, physiology, hygiene, and elementary civics and economics, with such

additional branches as the voters may determine upon at their regular annual meeting.

15. **How Supported**—The moneys arising from the permanent and temporary school funds of the State, though of great importance, furnish but a comparatively small part of the support of the common schools. The remainder required for such support is supplied by taxation in the several districts according to their needs.

16. **Schools Free**—The schools of each district are entirely free to all persons of the proper age residing therein. If, however, there are two or more schools in the district where the pupil resides, the directors are authorized to decide which school he may attend.

17. **Compulsory Attendance**—Children of the age of seven to fourteen years inclusive, in proper physical and mental condition shall attend some public, private, or parochial school where the common branches of reading, writing, spelling, arithmetic, grammar, geography, physiology, and United States history are taught, or to attend upon equivalent instruction by a competent teacher elsewhere than school for at least twenty-four consecutive school weeks in each year commencing with the first week of school after the first day of September, unless the board of school directors shall determine upon a later date which date shall not be later than the first Monday in December.

CHAPTER XXIV

TAXATION

1. **Assessment**—We have already learned that property is assessed or valued for taxation by Assessors elected for that purpose in the several townships, towns, and cities of the State.

2. **Equalization**—When the assessors have completed their work the lists are submitted for examination and correction to the township trustees, or town or city council, as the case may be, acting as a Board of Equalization. The board also hears and decides complaints of those who dispute or criticise the estimates made by the assessors.

3. **State Taxes**—The rate of taxation for State purposes is determined by the Executive Council, and notice thereof is transmitted by its secretary to each County Auditor.

4. **County Taxes**—The rate for county purposes is fixed by the Board of Supervisors in each county.

5. **School Taxes**—Taxes for school purposes are usually divided into three accounts or funds, known respectively as the Schoolhouse, Teachers', and Contingent Fund. The tax for the Schoolhouse Fund is voted by the people of each district at their annual meeting, while the amounts required for the other funds are estimated by

the Board of Directors—all of which is certified by the directors to the County Auditor.

6. **Municipal Taxes**—Taxes for town and city purposes are fixed by the council of each town or city according to its needs, and are likewise certified to the County Auditor.

7. **Levy**—The Board of Supervisors at its regular September meeting in each year proceeds to order the collection of all the various taxes which have been properly certified to the Auditor, together with the taxes it determines upon for county purposes. With the rates thus fixed the Auditor makes up the tax lists and delivers them to the County Treasurer on or before the 31st day of December.

8. **Collection**—It is the duty of every person subject to taxation to attend at the office of the Treasurer at some time between the first Monday in January and the first Monday in March and pay his taxes in full; or he may at his option pay one-half thereof at any time before the first Monday of March and the other half before the first of September without extra charge or penalty.

All taxes are due the first of January, but may be paid in the manner stated above. Although they should be paid on the dates named, the taxpayer has an additional month in which to pay his taxes. If, however, they are not paid within this time, they are considered delinquent as from the first of March. The penalty for nonpayment is one per cent. a month until paid.

9. **Tax Sale of Lands**—On the first Monday in

December of each year the Treasurer after due notice offers at public sale all lands, town lots, and other real estate on which any taxes remain delinquent.

10. **Redemption**—A person having real estate which has been sold for taxes may redeem the same at any time within three years by paying to the Auditor the amount for which it was sold with a penalty of ten per cent. and accumulated interest. If not so redeemed, the purchaser after due notice to the owner may apply to the Treasurer and receive a deed. If the proceedings have been regular, the original owner loses all title to the property conveyed by such deed.

11. **Sale of Personal Property**—The Treasurer may also seize and sell the personal property of the delinquent taxpayer to enforce payment of taxes; but where there is real estate from which the collection can be made other remedies are not ordinarily employed.

12. **Taxation of Railroads**—All railroad property in the State is assessed by the Executive Council. This valuation is made at an average sum per mile of road, and depends upon the earnings of the several corporations and all other matters necessary to enable the council to make a just and equitable assessment.

The Executive Council assesses also certain other public service companies.

INDEX

PAGE

Adjournment of General Assembly 19
Adjutant-General 89
Administration of justice.... 100
Admission as a State..... 43
Agricultural College.....93, 109
Amendment of bill.....19, 70
constitution 38, 111
Amendments adopted..... 112
Annual school meeting..... 133
Appeal 29, 96
Appointments to fill vacancies 115
Assessment of taxes..... 137
Assessors 125, 127
Asylums 94
Attainder, bills of.....15, 59
Attorney-General 31, 86
Auditor of State.....28, 85
County 119

Bail, excessive.....15, 58
right to.....14, 56
Ballot, Australian..... 64
Basis of representation..... 77
Bills, passage of.....19, 70
title of.....22, 75
when returned.....19, 71
Board of Equalization..... 137
Health 89
Boundaries of Iowa.....11, 39
Bridges 118

Capital of State.....40, 116
Census 23, 76
Chancery and law.....29, 96
Cities of first class..... 129
second " 128
Citizenship 62
Claims against county..... 118
Clerk, city..... 129
county 119
of supreme court..... 96
Collection of taxes..... 138
Commerce 107
Commissioner of labor..... 90
Commission plan of government 131
Conservators of the peace.... 29, 98, 120
Constables 124

PAGE

Contracts for schools..... 134
Constitution, development of. 43
as an outline..... 47
supreme law..... 40
Convention, constitutional.38, 112
Coroner 121
Corporations:
banking 34, 106
for profit..... 104
for other purposes..... 104
how created.....34, 105
municipal 34, 106
name of..... 104
State not a shareholder.34, 106
taxable 34, 106
utility of..... 104
Counties, number and area... 117
County Attorney..... 120
Clerk 119
officers 117
terms of..... 121
Courts:
District 29, 97
jurisdiction of.....29, 97
Justices 39, 113
Superior 130
Supreme 28, 95
jurisdiction of.....29, 95

Dairy commissioners..... 91
Delinquent taxpayers..... 138
Directors of school district... 133
Discovery of Iowa..... 41
Distribution of powers.... 17, 67
Districts, representative....24, 77
school 110, 133
senatorial 24, 76
Divorce 22, 74
Duelling 13

Early settlement..... 44
Elections, contested.....25, 80
by general assembly....24, 80
Electors, privileges of.....16, 63
Equalization of taxation..... 137
Escheats 37, 108
Executive council..... 86

Fire, protection against..91, 128
Foreigners, rights of.....15, 59

PAGE

Free schools..... 135
Freedom of speech.....13, 53

General assembly:
duties of.....18, 70
election 17, 68
eligibility 17, 68
term of office.....18, 68
Government, nature of..... 50

Habeas corpus.....14, 56
High schools, county..... 110
High-school departments..... 110
Historical department..... 92
History of Iowa..... 41

Impeachment 20, 72
Imprisonment for debt.....15, 58
Incorporated towns..... 126
officers of..... 127
powers of..... 128
Incorporation of cities..... 126
Indebtedness of municipalities 39, 114
Indebtedness of state.32, 102, 103
Independent school districts.. 133
Indictable offenses..... 55
Initiative and Referendum... 132

Judges. *See* Courts.
Judicial Department.....28, 95
districts 30
Jurisdiction, defined..... 113
Jury:
Grand 31, 99
right to trial by.....13, 54
Trial 100
Justice of the Peace.....39, 124

Laws, special, prohibited..22, 75
take effect, when.....22, 74
Lease of agricultural lands..15, 60
Legislative powers of nation. 46
State 46
Levy of taxes..... 138
Lieutenant-Governor ..25, 27, 79
president of senate.....27, 84
Liquor, manufacture and sale of 15
Lotteries 22, 74

Majority, rule of..... 51
Marriage license..... 119
Marshal 127, 129
Mayor 127, 129
Military subordinate to civil power 14, 57
Militia 14, 31, 101
Mine inspectors..... 90
Monarchy *versus* Republic... 50
Municipal corporations, classes of 126
Municipal elections..... 131

PAGE

National Guard..... 101
New counties, area of....39, 114
Non-elective State officers.... 89

Oath of general assembly..23, 75
public office.....39, 115
Oil inspector..... 90
Ordinances 128

Pardon 27, 83
Penitentiaries 93
Petition, right of.....15, 59
Petty misdemeanors.....14, 55
Police 130
Political power..... 50
Printer and binder..... 91
Private property, seizure of.15, 58
Process, style of..... 98
Public credit.....32, 102
education 108
roads 118, 125

Railroad Commissioners..... 87
Recall 132
Redemption of real estate.... 139
Reformatories 93
Register of births and deaths 119
Religious liberty.....12, 51
Reporter 96
Residence 63
Rights, natural..... 49
political 12, 49
Riots 128
Road supervisors..... 125

Sale of personal property for taxes 139
Salaries of county officers.... 122
judicial " 99
State " 88
Schedule 40, 116
School funds.....36, 103, 108
distribution of.38, 109
School year..... 135
Seal 28, 84
Search-warrants 13, 53
Secretary of State.....28, 85
Sheriff 120
Slavery 15, 59
Solicitor 129
Special charters..... 131
State constitutions, differences in 43
State librarian..... 91
State University.....93, 109
Statutes 48
Studies in common schools... 135
Succession in office.....27, 83
Suffrage, importance of..... 61
qualifications for.....16, 61
partial 62
Supervisors 117
duties of board..... 118
meetings 118

PAGE

Superintendent of Public Instruction 86
Support of schools..... 136
Supremacy of nation..... 46
State 47
Surveyor 121

Taxes 137
Taxation of railroads..... 139
Tax sale of lands..... 138
Teachers' College.....93, 110
Temporary school fund...108, 136
Terms of office..... 87
Tie vote..... 80
Township clerk..... 125
officers 124
Townships, civil..... 123
congressional 123

PAGE

Transportation 106
Treason 14, 57
Treasurer of State.....28, 85
Trial by jury.....13, 54

University fund 32, 36

Vacancies in office.....40, 115
Variety of local government.. 44
Veto 19, 71
Voting, manner of.....17, 65

War debts.....33, 103
Wardens 91
Wards 128
Water-works 128
Women eligible to office..... 121